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COMMITTEE ON AGRICULTURE January 25, 2005 LB 71, 330, 441, 150

The Committee on Agriculture met at 1:30 p.m. on Tuesday, January 25, 2005, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 71, LB 330, LB 441, and LB 150. Senators present: Bob Kremer, Chairperson; Phil Erdman, Vice Chairperson; Ernie Chambers; Doug Cunningham; Deb Fischer; Don Preister; and Roger Wehrbein. Senators absent: Carroll Burling.

SENATOR KREMER: We will begin our hearings for today. is Senator Bob Kremer and I'm Chair of Ag Committee. I will introduce our members. right is Jessica Shelburn. She is the committee clerk and she keeps track of everything. When you come up and spell your name it's not for her benefit as much as it is for the recording so that the people that are listening to the recordings know who's here and how to pronounce your name. So next is Senator Chambers on our committee. He's not here, he may be joining us later. Senator Preister from Omaha. Rick Leonard is the research analyst for the committee. To my left is Senator Erdman from Bayard. He is the Vice Chair of the committee; Senator Cunningham next to him from Wausau. Senator Burling I think is sick so I don't anticipate that he's going to be here today. Wehrbein from Plattsmouth and Senator Fischer from Valentine. Our page is here to assist you...is it David? forgot your last name, David.

DAVID SOLHEIM: Solheim.

SENATOR KREMER: Solheim? Okay, and he's a student at the University of Nebraska and if you have handouts to give to us or you need a glass of water or anything like that, why please let him know. He's here to help you out. A couple of instructions. We'd like to have you, if you're going to testify, to come up toward the front, fill out the sign-in sheet before you testify so it's already to drop in and try to keep the time, keep things moving as quickly as we can. Please turn off your cell phones so that they don't disrupt us in the middle and I think I probably ought to do that myself because that's, sometimes after I give the instruction my phone rings so please keep your conversations down. And ask for no display in support or in opposition to

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anything. We're here to hear all sides and give everybody an opportunity to express their views so. And as you introduce the bill, as I mentioned, state your name and spell your name, please. And we go in the order of we take all the proponents first, then the opponents, and then anyone that would like to testify in a neutral capacity. At this time, we will start with LB 71 and Senator Stuhr is here to introduce this bill. Welcome, Senator Stuhr, to the Agriculture Committee.

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SENATOR STUHR: (Exhibit 1) Thank you, Senator Kremer and members of the Agriculture Committee. For the record, my name is Elaine Stuhr, S-t-u-h-r, and I represent the 24th Legislative District. I come before you today to introduce LB 71 which would reenact the Agricultural Opportunities and Value-Added Partnerships Act. This act was originally passed in 2000 and was to sunset in 2004. And I did want to mention that Senator Wehrbein was the chief sponsor of that bill back in 2000. Funding was received for two years but then was cut because of the budget problems. Some of the purposes of this act are to support small enterprise formation in the ag sector of Nebraska's rural economy including innovative cooperative efforts for value-added enterprises to support the development of aq communities and economic opportunity through innovative partnerships, among farming and ranching operations, rural communities and businesses for the development of value-added ag products, encourage collaboration between farming and ranching operations and between farming and ranching operations and communities, government, and businesses as well as between To strengthen the value-added communities and regions. production industry by promoting strategic partnerships and networks through multigroup cooperation to create employment opportunities in the value-added ag industry. To enhance the income and opportunity for farming and ranching operations in Nebraska in order to stem the decline in their numbers, increase the farming and ranching operations' share of the food system profit; enhance the economic and social viability of rural communities; enhance opportunities; enhance opportunities for farming and ranching operations to participate in electronic commerce and new and emerging markets that strengthen rural economic opportunities.

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act would provide grants up to \$75,000 to cooperatives, to groups or associations, to enhance income and opportunities in ag and rural communities. This bill would appropriate \$1 million annually to be allocated to the Department of Economic Development although this act will be managed as a joint venture between the Department of Economic Development and the Department of Agriculture. And I do have an amendment I think that you all have before you that would simply clarify this division and it was brought to our attention after the bill was actually submitted that we need something to clarify for auditing purposes. matter of clarification. I am introducing So it's a I am introducing this bill on behalf of the Rural Development Commission of which I serve as a member and I believe that there will be others from the commission that will be here to testify on this bill. So I urge your support and would certainly be happy to answer any questions.

SENATOR KREMER: Thank you, Senator Stuhr. Anyone have questions for Senator Stuhr? Senator Cunningham.

SENATOR CUNNINGHAM: Thank you, Senator. I don't really have a question but I would tell you, Senator Stuhr, the last time when this was still in effect, I believe it was two years ago, it was a very major bill for all of Nebraska but especially northeast Nebraska it was used many times. And so it was quite devastating, I thought, when we cut the funding and I hope we're able to find the funding this year. Thank you.

SENATOR STUHR: Okay. Thank you for those comments.

SENATOR KREMER: Senator Preister.

SENATOR PREISTER: That's a good follow-up to my question too, Senator Stuhr. Any idea about the funding source? I assume it's General Funds but where that million dollars a year is going to come from?

SENATOR STUHR: No. Yes, it will be General Funds and that will be something we'll have to sort out but I think there will be some people here to testify. I'm hoping that actually we'll prove some of the results of the first couple years that we were able to fund it because there were some very positive instances of help.

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SENATOR PREISTER: Okay. Thank you.

SENATOR KREMER: And the cuts went from a million down to was it what, \$750,000 to zero, the funding that the program had before?

SENATOR STUHR: Yes, um-hum. Right.

SENATOR KREMER: So right now it's at zero so it reinstates the whole amount then.

SENATOR STUHR: Yes. Right.

SENATOR KREMER: Okay. Any other questions? Thank you, Senator Stuhr.

SENATOR STUHR: Okay. Thank you.

SENATOR KREMER: While the first testifier is coming up, I want to apologize. I failed to mention something very important that we have Senator Dierks here today that chaired this committee for many years. And I have big shoes to fill and so we thank you for coming and welcome.

MARCIA BAUMANN: (Exhibit 2) Good afternoon. Chairman Kremer and senators of the Agriculture Committee, my name is Marcia Baumann, B-a-u-m-a-n-n. And I am the Chair of the Nebraska Rural Development Commission and I'm appearing here today on behalf of the commission in support of LB 71. intent of LB 71 is to encourage and support agricultural innovation throughout Nebraska. It is our belief that with the right tools Nebraska can become the global leader in agricultural innovation. We want Nebraskans to think beyond commodity agriculture and begin to think about how to apply new technologies and practices that add value to achieve the highest margin. We want to provide an opportunity for Nebraska's young farmers and ranchers to take risks and explore new ideas. The reinstatement of the Agricultural Opportunities and Value-Added Partnership Act assists groups individuals in their efforts to take agriculturai entrepreneurial ideas from concept to reality. In a report brief published by the Department of Agriculture projects that were assisted by the former Value-Added Grant Program grant funds was shown to have been successfully

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distributed and implemented into a wide variety of projects. As an example, the Nebraska wine and grape industry used their grant award to improve their marketing and research. In doing so, the group was able to advance itself ahead of similar groups in other states and as a testament to their success there are now as many as 140 members of the Nebraska Winery and Grape Growers Association, 40 producers, and 200 acres of grapes within Nebraska. Another success story is the Kearney Area Ag Producers Alliance, KAAPA. They leveraged their grant dollars for an ethanol plant project near Axtell, Nebraska. This was just the beginning for KAAPA. They are now considered one of the most progressive, value-added agricultural organizations in Nebraska, exploring everything from agri-tourism ideas to pharmaceutical and nutraceutical crops. And, finally, of more recent interest because of the global trade issues and challenges faced by the beef industry, there is the success of the small farm co-op which is one of the only four or five entities within the entire United States that is certified to sell hormone-free beef in the European market. As you can see, the Agricultural Opportunities and Value-Added Partnership Act is a tool that honors our agricultural heritage and advances our ag opportunities of the twenty-first century. It works for rural areas by providing start-up investments that ultimately translates into jobs and complements other agricultural and economic development programs. The success of our rural areas is critically important to the overall economic health of our state. Because our agricultural-based economy is a virtual diamond mine of opportunity, I encourage you to advance LB 71. I thank you for your time and would be happy to answer any questions.

SENATOR KREMER: Okay, thank you, Marcia. Any questions? A couple. This is pretty much the bill verbatim as what we had before. Are you comfortable with the way it is and that it can be ongoing and...

MARCIA BAUMANN: Yes, very much so. The commission has taken a careful look at this bill.

SENATOR KREMER: And are most of the grant recipients still in operation today or do you have any idea of what the track record is of what the grants that were issued and whether they're still going?

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MARCIA BAUMANN: I don't have specifics, although the three that I mentioned are very much, you know, in operation.

SENATOR KREMER: Okay.

MARCIA BAUMANN: I think we have some other people here testifying to demonstrate that.

SENATOR KREMER: Thank you. Any other questions? Seeing none, thank you.

MARCIA BAUMANN: Thank you.

SENATOR KREMER: Senator Chambers from Omaha has joined us and welcome. Next testifier, proponent. You are a proponent, please, have your sign-in sheet. There...I think there's some on the tables too if you need to have some. Right, yeah, just drop it in there, that's right.

MARVIN HAVLAT: My name is Marvin Havlat. I'm from Milford,...

SENATOR KREMER: Could you spell your last name, too, please?

MARVIN HAVLAT: H-a-v-l-a-t.

SENATOR KREMER: Thank you.

MARVIN HAVLAT: Okay, I'm a farmer from Seward County, Nebraska. And I don't...I'm not associated with any of these people but I wanted to just show you a project I'd been working on that might fall under what you might be helping out if you go ahead with this grants program. If I could have someone show you this picture here. This is what I've been doing here in the last couple years.

SENATOR KREMER: Where is our page?

MARVIN HAVLAT: Yeah, can someone like show...

SENATOR KREMER: Okay, here we go. Just carry it around.

MARVIN HAVLAT: What that is is a flower called the Liatris

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pychnostachya. It's a native prairie flower. And I entered it in the Seward County fair this year and it took first place of the cut flowers. And so what I am trying to develop is an industry of native flowers for the nursery market and for the flowerseed market and for the cut flower market and maybe also for tourism because I think that if I use these flowers and grow monoculture, that it would be, you know, I could bring tourists in. And so, I think that's about all I have to say in that way, in that regards except lately I've failed. I have Seward county department of roads. They're going to take out six acres of native prairie where all these sources come from. There's about 450 different types of forbs there. And Dr. Vogel at the University of Nebraska would tell you, we don't know anything about any of these forbs. And so they're taking six acres out and I fought them for years and I failed. But this is where the resources come from for your future of agriculture in some areas anyway, I would think. Pharmacology and just, you know, ornamental horticulture and that so, thank you very much.

SENATOR KREMER: Okay, thank you. Wait just a second. Maybe we have some questions for you.

MARVIN HAVLAT: Oh, okay.

MARVIN HAVLAT: We'll make them easy so, Senator Wehrbein.

SENATOR WEHRBEIN: How would you utilize some money...what would your...an idea that you could...

MARVIN HAVLAT: I think something has to be done on research. You know, a lot of these plants are just genome-type plants. No one has taken and hybrided the seeds to grow them up for the nursery markets. And one problem I had with this flower is, it was bigger than any flower that came in here from anywhere else in the world because they're native from this area but they have been taken here and there. But most of the wholesalers in the flower markets here, they're tied up on long-term contracts and so you can't really break into those markets. I've broken in some with the seed market, okay. And I know a gentleman in Iowa who grows just for seed and his gross is about \$9,000 an acre growing Liatris pychnostachya seed. So, you know, and he markets his to counties in Iowa who plant the roadsides

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and other places.

SENATOR WEHRBEIN: Okay, Thank you.

MARVIN HAVLAT: But there's a worldwide market for the seed, I think, and we're putting up Internet sites also.

SENATOR KREMER: Are they just growing wild now somewhat or...?

MARVIN HAVLAT: Well, there's several types that we photographed this year and they're just...they've been there and some of them can be old as 500 years old. And they don't come up every year. Last year I had orchids come up and thistles...different types of thistles. This year no orchids but plenty of other, you know, violets and echinacea and lead plant and just, you know,...one of the pleasant surprises we've had is in the flower trades whether you're nursery or cut flowers, true blue is hard to find. And there's a plant out there called a prairie gentian that is true blue. And so we have about, I think about ten of them that we've GPS'd out where the roads crew is going to go. And they're going to let us try and move them. Then we've going to move the native seeds back in after they go through. That's the plans anyway.

SENATOR KREMER: Okay. Any other questions? Well, if LB 71 should pass and it gets funded, why I'd encourage you to submit a grant and (inaudible)...

MARVIN HAVLAT: I've tried for it. It's our program over there but not quite got one yet.

SENATOR KREMER: Okay, thank you for coming.

MARVIN HAVLAT: Thank you.

SENATOR KREMER: Any other...one want to testify in a proponent position?

ROSS GARWOOD: Senator Kremer, my name is Ross Garwood. That's G-a-r-w-o-o-d, and like to thank you and the members of the Agriculture Committee for allowing me to testify. I am a farmer, live up in Holt County, Nebraska. I'm also a member of the Rural Economic Development Commission and the

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Nebraska Farm Bureau Federation as on the board And I'm appearing before you today on behalf in directors. support of LB 71, the Agricultural Opportunities Value-Added Partnerships Act. First, I'd like to commend Senator Stuhr for recognizing the importance of our rural communities with this piece of legislation. And it is imperative that we enhance rural entrepreneurship and small business development in rural Nebraska in order to help our rural economy grow and diversify. During the past decade competition in the marketplace in agriculture has changed dramatically. As a producer, we once prided ourselves in U.S. agriculture as being the world's low-cost producer which gave us a competitive edge in the international marketplace. Currently, with the recent huge growth of production and exports from countries such as Brazil and Argentina, we as producers have to look beyond raising conventional bulk commodities and selling them traditional domestic and international markets. These changes in agriculture are particularly affecting small, medium-sized, and young producers the most. For these segments of agriculture it will become even more important that we help create opportunities for them to use innovation and technology especially the products in niche markets as they look to complement their conventional production. We believe this bill would help move a value-based agriculture idea to an actual project. That provides more income for farm operations. Also as a former applicant of the value-added project under the previous program, I do have a few suggestions for the committee as you look at potential refinements of the bill. I think consideration should be given to maybe downsizing the current \$75,000 maximum grant level in order to broaden the scope and effectiveness of the program. It also seems to me that some consideration should be given to the practicality of focusing the program more on helping innovative projects and collaborative efforts to get off to a good start rather than funding high-priced feasibility programs. While I recognize that this bill has many purposes in order to enhance agricultural innovation and farm income, I thought it would be worth mentioning these personal comments as this committee examines the bill and ways to restart the bill. In closing, Nebraska Farm Bureau Federation supports LB 71 and encourages the committee to advance it to General File. Thank you for your consideration. I'd welcome questions.

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SENATOR KREMER: Thank you, Ross. Any questions? Senator Chambers.

SENATOR CHAMBERS: Just one. Is the Nebraska Farm Bureau Federation a farmers' organization?

ROSS GARWOOD: Yes, Senator. I would consider it a farmers' organization.

SENATOR CHAMBERS: So the majority of people who belong are farmers?

ROSS GARWOOD: The majority of the people that make this policy are, yes, farmers. I'm very comfortable in that, very comfortable in the process of that, yes.

SENATOR CHAMBERS: I think you answered something other than what I asked. How does a person become a member of the Nebraska Farm Bureau Federation?

ROSS GARWOOD: Well, simply, you pay a membership due.

SENATOR CHAMBERS: And you're telling me the majority of the members are farmers?

ROSS GARWOOD: I'd say the majority and I'm, you know, I'm a producer from north central Nebraska. I can't give you membership numbers. The things that are important to me, Senator Chambers,...

SENATOR CHAMBERS: I'm not questioning you what's important to you...

ROSS GARWOOD: Okay.

SENATOR CHAMBERS: ...I just asked a question that I think is simple to answer. How long have you been a member of the federation?

ROSS GARWOOD: That's a fun question. You know, my family, my earliest recollections of a child were going to Farm Bureau member meetings. So I've been involved with Farm Bureau, my family have ever since I've been alive as I can remember.

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SENATOR CHAMBERS: So I'm going to ask the question again. When did you first become a paid member?

ROSS GARWOOD: Well, probably as soon as I was old enough to...you know, when you're dealing with family groups...

SENATOR CHAMBERS: Have you been...would you consider yourself to have been a member for at least ten years?

ROSS GARWOOD: Yes.

SENATOR CHAMBERS: And you have no idea whether the majority of the members are farmers or not? Then let me ask a question a different way. Would you be surprised if I tell you, myself being a nonmember, that the majority of members are not farmers. Would that shock you?

ROSS GARWOOD: No, it does not.

SENATOR CHAMBERS: Well, why wouldn't it shock you if you don't know how many members are farmers?

ROSS GARWOOD: I am not very easily shocked.

SENATOR CHAMBERS: And you'd take my word for it, would you?

ROSS GARWOOD: As, in your position (laugh), I don't believe it would appropriate for you to lie to me, no.

SENATOR CHAMBERS: But I could. Couldn't I?

ROSS GARWOOD: It would not be appropriate for you to lie to me (laughter).

SENATOR CHAMBERS: Well, it's not appropriate to anybody to lie at any time. Thou shalt not...here's the point I'm getting at.

ROSS GARWOOD: Please.

SENATOR CHAMBERS: I know that the majority of Farm Bureau members are not farmers. Why do nonfarmers become members?

ROSS GARWOOD: You know, there's obvious reasons but...

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SENATOR CHAMBERS: Just give me one.

ROSS GARWOOD: ...Nebraska is a large agricultural state. And there's a lot of support for agriculture across the entire state.

SENATOR CHAMBERS: So you're telling me the nonfarmers are members to help agriculture. Is there...what is the benefit that a member gets who joins?

ROSS GARWOOD: This is the major benefit, to have the opportunity to come before senators like yourself, get involved in policy development from a countywide area from Lancaster to Omaha, Douglas as well...

SENATOR CHAMBERS: Well, if I wanted to be a member but I wasn't interested in formulating policy, what other benefit might be offered by the Farm Bureau Federation that might make a nonmember from the city...I mean a nonfarmer from the city want to become a member?

ROSS GARWOOD: The same benefits that I would say from a policy development side that deal with people that are in agriculture that don't get involved in the policy development.

SENATOR CHAMBERS: But there are no services provided by the Farm Bureau to its members?

ROSS GARWOOD: Well, actually, yeah, I've had a huge list of services...

SENATOR CHAMBERS: Give me an idea of one that would provide a city person who's not a farmer.

ROSS GARWOOD: Reductions in your travel expenses.

SENATOR CHAMBERS: What else?

ROSS GARWOOD: You said one (laugh). There's also a really nice program for cell phone users and that sort of thing so, yes, there are benefits.

SENATOR CHAMBERS: There are no insurance policies that...there are no insurance programs are there?

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ROSS GARWOOD: Oh, yes.

SENATOR CHAMBERS: Oh, okay, thank you. That's all I have to ask. Thank you (laughter).

SENATOR KREMER: Any other questions? Thank you, Ross, for your testimony.

ROSS GARWOOD: Thank you, Senator.

SENATOR KREMER: Next proponent?

ROD JOHNSON: Senator Kremer and committee members, I'm Rod Johnson, executive director of the Nebraska Pork Producers Association, here representing the producers of our state. My comments will be very brief. We are here supporting The opportunities to add value to the commodities that are produced in Nebraska is very important. To start with the very basics, I look at the corn production, the soybean production in Nebraska, and the first place that we can add value to those commodities is to put them through the livestock industry which we have in Nebraska. that in mind, I am suggesting that we need to make sure that through this program we can encourage cooperation between producers. Many of those producers that need someone to partner up with are the younger producers just getting started, the producers that are smaller, maybe don't have the volume that they need to have the operation that they're looking for. So by cooperating and going into joint ventures I think this is a very strong opportunity to add value to the corn and soybeans, the first step in putting together a program to create the food supply that we need. So with that, I would answer any questions and encourage the committee to advance this and encourage the administrators of this program to look at production and livestock as an opportunity for value-added.

SENATOR KREMER: Okay, thank you, Rod. Any questions? Senator Chambers.

SENATOR CHAMBERS: What country is the largest producer of soybeans at the time, at this time?

ROD JOHNSON: I'm not in the soybean industry. I could not

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tell you (laugh).

SENATOR CHAMBERS: Thank you.

SENATOR KREMER: Any other questions? Thank you, Rod. Next proponent.

TOM HANSEN: Good afternoon, Senator. My name is Tom Hansen from North Platte. I'm a fourth generation cow-calf producer.

SENATOR KREMER: Please spell your name.

TOM HANSEN: Oh, I'm sorry. H-a-n-s-e-n. I'm a fourth generation cow-calf rancher from North Platte and my comments also will be brief that value-added a few years ago was a buzzword but now it's an everyday reality. We have to form value-added circles, if you will, to get our product to its full potential. One example that I was in this fall in North Platte, our corn crop was late coming out. And I ran into a corn farmer that I know well and we had some bull calves we needed to put on feed. So he said, well, why don't we work together? We'll sell the feed to the commercial feedlot guy and feed his corn and then I'll feed the cattle his corn. So that was a joint venture to add value. Everything has added value in Nebraska, the ethanol business. And we get, we use by-products from the ethanol business too so value-added is a daily reality now. And I hope that this bill can get funded, and I hope that, on any scale the value-added in Nebraska is a good deal.

SENATOR KREMER: Okay, thank you, Mr. Hansen. Any questions? Seeing none, thank you.

TOM HANSEN: Um-hum.

SENATOR KREMER: Next proponent, please. Welcome, Senator Dierks.

CAP DIERKS: Thank you, Senator Kremer, members of the committee. Rick, nice to see you again. My name is Cap Dierks, Cap like you wear on your head, D-i-e-r-k-s. I'm from Ewing, Nebraska, and I'm representing the Dierks Ranch today. I thought that I should at least weigh in on this issue because this was something that happened originally

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when I was Chair of the committee, Senator Kremer. And I think that the bill, as it was introduced by Senator Wehrbein at the time, did an excellent job of providing these processes to take place that you've heard about. I was there when the budget was in such a turmoil that this program was eliminated. And we all felt the hurt there because it really did a tremendous amount of good across the state. So my only comments are that I'm appreciative of Senator Stuhr bringing it back. I appreciated it when Senator Wehrbein had it. I think the producers in our state use it wisely, and I hope that it is accepted again by your committee and by the Legislature and signed by the Governor. Thank you.

SENATOR KREMER: Thank you, Senator. Any questions? Senator Chambers.

SENATOR CHAMBERS: Senator Dierks, by saying you're glad to see Rick again, does that mean you're not glad to see those whom you did not name? (Laughter)

CAP DIERKS: No. I couldn't remember all your names, Senator. (Laughter)

SENATOR CHAMBERS: I'll leave that alone. Thank you, Senator Dierks. But it is good to see you again.

SENATOR KREMER: Sometimes it slips us what the names are, doesn't it? Thank you, Senator Dierks. Any other questions? Oh, Senator Preister. We're not through with you yet here.

CAP DIERKS: Oh, I see.

SENATOR PREISTER: Your humor keeps you going a little bit longer, Senator. I ask you this question in all seriousness because I believe you to be a very compassionate and a very good person.

CAP DIERKS: Wow.

SENATOR PREISTER: In past years, we have taken children off healthcare. We have had to cut programs across the state that have directly hurt people. And now we're not really out of that kind of a budget crunch. We're faced with

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another \$140-some million that we have to pay out of a court-ordered low-level waste lawsuit that you and I probably both agree Nebraska never should have gotten in the compact in the first place. But given the forced amount of money we have to pay there and our budget restraints, how do you justify an additional million dollars out of a budget where we're already hurting people and taking money away from them?

CAP DIERKS: I think that the benefits from the program will far outweigh the costs and it could provide more dollars in the way of taxes for farmers and ranchers to help with some of those issues you're talking about. Another issue that is very important to me is the developmentally disabled. That always was--all the while I was here we tried to do everything we could to take care of those very unfortunate folks that needed care. And so that's another program that you didn't mention, but I think that's extremely important. And we tried very hard to take care of those issues while I was here. But I think that really you take good programs that are going to bring us more money for our state coffers and make those programs work to provide for the help that you're asking for--the children and the developmentally disabled, the mentally handicapped, those programs where people can't take care of themselves and need state help.

SENATOR PREISTER: So what you're saying is this is an investment in rural Nebraska that will reap more benefit and more financial funds coming into the General Funds of the state that will pay for those things?

CAP DIERKS: Yes. I think that it did before. I think that the history of this particular piece of legislation in effect from 2000 on did do that. I think we had people that were able to capitalize on those things and make a little money at it and provide more income for our General Fund.

SENATOR PREISTER: I would like to see some of that information. That would be helpful to me.

CAP DIERKS: I'm not sure that I could provide you with information. I'm just going on what my gut feeling is, Senator Preister. I think that some of these people that testified earlier can tell you the successes of the program that they've been involved with. And I think that that

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should be adequate to provide us with the knowledge that the money is coming in to help us on these other programs. know that some of the, for instance, the programs...the one that started up in Plainview a few years ago, there was an economic economist that did a study of the returns to that community. And the one year, if I'm not that return is like \$65 million--wages and turnaround and reinvestment and that sort of Everything that comes out of there is plus. I mean I think Tom Hansen mentioned it here a little bit ago the distillers grain, for instance, was a great sales thing. When we had the hearing on that in Revenue Committee, the University of Nebraska came out here and said they'd had some research done with the distillers grain and their theory was that the feeders, the feedlot operators, found this a very, very valuable product for them to use. So that's another value-added product. I think there's a lot of evidence that these kind of programs do help our General Fund.

SENATOR PREISTER: Thank you.

SENATOR KREMER: Senator Cunningham.

SENATOR CUNNINGHAM: Hi, Senator Dierks. Thanks for being here.

CAP DIERKS: Doug.

SENATOR CUNNINGHAM: You might be able to help me here. A few years ago or three years ago I believe there was a company that was formed in northeast Nebraska to...and they got a grant like this that was to help find markets for direct marketed beef. Do you remember? I believe it was in Wynot. And what that did was helped some farmers keep a bigger share of the dollar instead of letting it go to the middleman. They kept more of the dollar and it helped those farmers stay on the farm and then in the process it helps to fund the General Fund and help us provide some of these other programs. Do you remember the group I'm...

CAP DIERKS: I don't remember that specific program, Doug, but I...Senator Cunningham, excuse me.

SENATOR CUNNINGHAM: No, that's fine.

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CAP DIERKS: But what you're saying I think is probably true.

SENATOR CUNNINGHAM: I believe it was maybe Mainbow Farms possibly got that grant.

CAP DIERKS: The name was what?

SENATOR CUNNINGHAM: Mainbow Farms possibly.

CAP DIERKS: Rainbow?

SENATOR CUNNINGHAM: Mainbow.

CAP DIERKS: I don't recall that, no.

SENATOR CUNNINGHAM: But they were a recipient I believe of this money and helped with the marketing and finding markets for that product.

CAP DIERKS: Yeah, um-hum.

SENATOR CUNNINGHAM: Thank you.

CAP DIERKS: You bet.

SENATOR KREMER: Okay. Any other questions? Senator Chambers.

SENATOR CHAMBERS: Senator Dierks, I don't know if you remember, but when you were a member of the body, ethanol has always been a sore point with me and the underwriting of it by any General Fund money because of the multinational corporations that are really getting the big end of it, the ones who are able to get Congress to give the large subsidies. So I say all that to bring me back to a figure that you quoted of \$55 million return from that plant. And I just want to make it clear for the record, and you can correct me if I'm wrong, that does not mean \$55 million coming into that community which had not been there is when the figures are kind of manipulated and various other activities are valued that you arrive at a \$55 million figure. It did not bring in actually 55 million cash to that community. Isn't that correct?

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CAP DIERKS: That's correct. I'm not sure what the actual name is, but it involves a multiplier of like five or six times that this thing changes hands. And each time it changes hands, the dollars, each time they change hands, it adds to the economy.

SENATOR CHAMBERS: Right. The name of it is chicanery.

CAP DIERKS: Chicanery, okay (laugh). Okay, as a matter of fact, I think it was \$65 million, Ernie.

SENATOR CHAMBERS: Oh, the shell game, too (laugh).

CAP DIERKS: It's even worse than you thought, huh.

SENATOR KREMER: Better stop digging now. Okay, any other questions? Thank you, Senator Dierks.

CAP DIERKS: Thanks, Senator.

SENATOR KREMER: Good to see you today. Anyone else wishing to testify as a proponent? How many more proponents do we have to testify? One? Okay.

VERN JANTZEN: (Exhibit 3) Good afternoon, Chairman Kremer and members of the Agricultural Committee. My name is Vern Jantzen, J-a-n-t-z-e-n. I am a dairy farmer near Plymouth and I am testifying in favor of LB 71 as a representative of the Nebraska Farmers Union. I currently serve as a secretary of our organization and our state president, John Hansen, asked me to share a few reasons why our organization supports this present bill. It is both frustrating and disappointing to observe the continuing exodus of young people from rural Nebraska. Our communities and schools do an excellent job of training and equipping rural youth to be productive members of society. And then when they are ready to enter the working world there are no jobs available to match their expectations or their skills. support for growing jobs and production agriculture through continuing negative public agricultural policy and misguided trade agreements means job development must occur in other areas of our rural communities. LB 71 is an attempt to invest a small amount of state funds in rural areas to help grow opportunities for employment appropriate to a rural economy. Similar legislation has been successful in the

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past and a continuation of such a program is appropriate now. With a small infusion of capital in an appropriate time many creative ideas for rural-based initiatives can be started and grow into a success story for our struggling rural communities. I live near the community of Diller which has received a lot of attention lately from the media and others because of the incentive of local citizens to invest in the community and provide services for the area that creates a growing need for jobs. This bill would help other small communities across Nebraska also explore the possibilities of achieving the same results for their citizens and we urge your support of this bill. Thank you.

SENATOR KREMER: Thank you, Vern. Any questions? Seeing none, thank you. Next testifier, please.

JIM KNOPIK: Good afternoon, senators, Senator Kremer and members of the Ag Committee. My name is Jim Knopik, K-n-o-p-i-k. And today I will be representing the Center for Rural Affairs and myself. I'm a board member on the center.

SENATOR KREMER: Did you fill out a sign-in sheet?

JIM KNOPIK: No, I didn't.

SENATOR KREMER: You can do it when you get done and just drop it in there will be fine.

JIM KNOPIK: Okay, all right. I have some pictures here I'd like to pass around while I'm testifying. I'm also a member of the Small Farms Co-op and North Star Neighbors, both cooperatives that are direct marketing, beef and other meats. The Small Farms Co-operative, both of these co-ops or groups receive money from LB 1348, I believe in the year 2000 which helped us get started and it's greatly appreciated. And thank you for those who helped get that passed. That money came in very handy for start-up cost for the fact that you're unable to borrow money from banks without collateral and so some of these high-risk things that we had to do there that could have went nowhere, it's pretty hard to find money for those. So that was really helpful. The money for the Small Farms program helped develop the NHTC which is a nonhormone treated cattle certification through the USDA. And that gave us the

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opportunity to direct market to the European union. family so far since then has sold 186 head of cattle through that co-op. And right now John Smith kind of takes a lead on that and they can't get enough cattle to go in there, into the European union that the demand is that great over there. So that's what it's done for them. As far as North Star neighbors we have seven families in that organization right now. We started out with seven; we went down to five. We're back up to seven again. And the real help that this grant gave us was it helped us purchase equipment which most grants do not help you do. They're mainly for start-up costs such as legal organizations and things like that. to be able to purchase equipment and computers and those type of things and pay for some advertising which we really needed to get started was something you just can't go out and borrow money for or get money easily for so. So what North Star Neighbors has created here as far as economic development, I'll do a little bragging right now because we have created quite a bit of economic development. created one-and-a-half jobs. We have my son quit farming and became full-time manager of this company. And so he's at full-time and that right now for as many hours as he puts in, that's nearly a \$30,000 job for him. And then we have a part-time secretary which works about 20 hours out of the week to help him out. So, and also we started in the chicken business is what really developed this whole thing and all the meats that we have right now. And the outside labor that we as a group usually hire for extra help amounts to about 1,200 hours a year and we pay those people \$10 an So when we find somebody good we don't have to continue to look for people that are good and do a good job for us so they keep coming back and that's worked out really well. Meat processing, we spent nearly \$40,000 last year at Main Street Market in Humphrey in them just doing our USDA qualified meats. We paid farmers profitable margins since we started. One instance was, we went through the \$8 hogs and we were paying a 70-cent per pound for the hogs at that And we made that work. Chickens also ranges from, I think, \$1.85 to about \$2.25 a pound. Turkeys about \$2.50 a And when you look at that with the going market of pound. today that really shows Tyson there's...we're paying the farmers well on that. Right now we figure that we're about selling about 8 percent of what we want to. That was our projected goal when we started. And the reason we came up with the goal...the goal was about

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800 cattle, 1,200 head of hogs, and then I don't know as we ever put on a limit on any of the other species. But what the reason that goal was there, we established that goal was that would run a small locker plant efficiently and would maintain the help of about five employees in that. So we wanted to create a business that, if we had to develop that ourselves, would sustain itself too so that's kind of where we're at right now. The demand...our direct market, started in a state of urgency. We needed to make a lot of sales guick so we started out in a lot of stores. we were in about ten stores when we started out. And going into there, we were in big competition with some of our bigger suppliers of meat. And we couldn't really compete in price. And without being there at those stores to represent our meats and explain why we...our prices were there at that price and why we were capable of getting that price, why our was worth that much when they just had price comparisons, we didn't sell hardly anything through those stores. So that's where this money helped out. It bought us plenty of time so we went out and got our own customers which was part of the plan in the first place. But we got back to just focusing on consumers as our direct marketers. So right now we have about between 250 and 300 families that buy nothing but our meat products. They've come and went and came back after they seen what the quality was and what the real reasons are behind the way we feed our animals and take care of them and so on. So it takes awhile to develop that market and it's a little hard to understand until you go through the whole scheme. So, but right now I would say it would took us about...I think we started selling chickens like '97 and at this time this year we don't have to borrow any more money. We finally rolled into the way where the business takes care of itself finally. So, which we're pretty happy about. And those sales, as far as our goal is, as a percentage is only 8 percent of what we really would like to do. One of our goals was to get about 25 members into our co-op and we lost two and gained two. It's hard for new members to come into our co-op because of a lot of our standards are pretty strict. And another thing is, a lot of farmers need to cash flow quick and we can't sell enough product for them as soon as they come in because of our markets yet to take on anybody and allow them a profit in their whole farming business. That's what makes it tough. But we feel really excited about maybe new farmers get into this because if you look at our pictures it doesn't

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take much investment to get started into this. So somebody who's really starting up will have an easier time getting into our program than somebody that's a conventional farmer and has a lot of equipment and overhead expenses and cost there that they have to pay for. So we're really excited And I guess the thing that this...the grant about that. helped us to do the most is we were going into an area where none of us knew anything about as far as developing a direct marketing organization. We really were just farmers, salesmen and processors and meat cutters and weren't advertisers and all those things that we needed to be. it took a long time to develop that and learn that and we had no other sources to really learn this from. So it was a learning experience we had to do on our own. And it was guite expensive and a lot of things we did never helped so it was all expense and no incoming money there. So in the last couple of years since we've developed North Star Neighbors, now part of our plan and our want to is to help other people do the same thing we're doing. There's been some questions asked of us, why would we want to help other people get started? Because the competition is going to, you know, they'd be too competitive for us and they would take away our customers. We found out down at the Farmers Market that competition is more healthy and from our help of getting other vendors started down there we were the only vendor there for a couple of years. Now there's like, I believe, six or seven meat vendors in Lincoln and about five or six in Omaha that's doing the same thing. And so it's a growing thing. And I like to describe it like if we're the only ones there, you know, and there's only one or two customers in front of your...where you're selling meat, people don't get too excited about that but if there's a lot of vendors around and there's a lot of customers asking questions and buying things from them it just makes everybody look and ask those good questions of why we do things the way we do. So we're really excited about that and I think I'll end there.

SENATOR KREMER: Okay. Any questions of Jim? Jim, was the grant used by your North Star or by this Small Farms Cooperative?

JIM KNOPIK: Both of them.

SENATOR KREMER: Both of them?

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JIM KNOPIK: Yeah.

SENATOR KREMER: Do you get other grants from federal or anything like that?

JIM KNOPIK: We've got one grant that was \$5,000 from NCDC to do the legal cost of putting together an LLC.

SENATOR KREMER: Are there restrictions to the grants, what you use it for equipment or can you it for personnel or anything like that or?

JIM KNOPIK: Most grants there are lots of restrictions that you can't use it for, I believe, paying help or equipment costs and those types of things and that's where this grant really came in handy because we could use it for those and not develop, you know, expenses that really didn't need to be there in the first place.

SENATOR KREMER: Any other questions? Thank you, Jim, appreciate you coming.

JIM KNOPIK: You bet. Thank you and I'd like to have my pictures back too, I quess.

SENATOR KREMER: Oh, they were nice pictures.

JIM KNOPIK: All right. Thank you.

SENATOR KREMER: Anyone else wishing to testify as a proponent? Anyone wishing to testify as an opponent? Anyone wishing to testify in a neutral capacity?

GREG IBACH: (Exhibits 4, 5) Good afternoon, Senator Kremer and members of the Ag Committee. My name is Greg Ibach, I-b-a-c-h. I'm the assistant director for the Nebraska Department of Agriculture and I'm here today to testify on LB 71. As previously stated, the legislation would re-implement with some changes to Agricultural Opportunities and Value-Added Partnerships Act. The Nebraska Department of Agriculture was charged with carrying out the initial legislation approved by the Legislature in 2000 and we understand with Senator Stuhr's proposed amendments we would be in a cooperative role with the Department of Economic

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Development to carry out LB 71. You have in front of you a listing that's being handed out right now, projects that were funded under the original value-added agricultural grant program. As you review that document, you'll find that Nebraskans are building upon our traditional agricultural strengths by creating value-added ethanol from our abundance of corn, for example, and exploring new products such as ostrich and emu meat. You'll also find that grantees were awarded funds for a variety of purposes from creating marketing plans and conducting feasibility studies to researching new markets and purchasing essential production equipment. LB 71 encourages this same diversity of opportunity. This bill with the proposed amendments calls for the Department of Agriculture to collaborate with the Department of Economic Development in implementing this grant program. I believe this partnership would strengthen the groundwork we laid in creating the previous program, combining DEDs, business development expertise with our agricultural expertise would produce grant-funded projects that have a solid base upon which to build. With that, I'll answer any questions you might have.

SENATOR KREMER: Okay. Thank you, Greg. Anyone have a question for Greg? Senator...what's your name? (laugh) Erdman.

SENATOR ERDMAN: There you go (laughter). Greg, I had a couple questions written down. I think this report kind of outlines that as far as who received the grants and I guess the only question that I still have is, do we know of the organizations that receive the grants under the original 1348. How many of those are still in operation?

GREG IBACH: You know what? We didn't go ahead and classify those and on this report. We could do that with a little bit of work, look through and see. I think it's just a brief review of this document and based on my knowledge is that there's still a majority of these groups that were successful and that use the grants as part of their bounding block, if you will, to move ahead and be successful. And there are a few that, very few, that are no longer viable operations.

SENATOR ERDMAN: I guess the other question...as I read this I may find the answer. But does the description go into

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whether or not this was a start-up company or whether it was an expansion of an existing operation? Does the description outline any of that?

GREG IBACH: I don't believe that that will be completely outlined in those brief descriptions. I think the description, though, will provide you with some insight as to whether or not they were expanding into a different marketing avenue and so that will also, you know, lead you to, you know, conclude whether they were in existence and just trying to market in a different way or whether or not they were trying to do a feasibility study which implies that they were a start-up opportunity.

SENATOR ERDMAN: Right. If there would be a way to kind of review those and let us know how many of those, to the best of your knowledge, are still in operation. I think that would be valuable to look at not only how the program worked in regard to the organization that received the money but also how that investment is playing out now. Obviously, you know, the program isn't in place at the moment but it would be interesting to see how these organizations are still operating and which ones of those were those that originally qualified.

GREG IBACH: We'll be happy to review that and provide that to Senator Kremer to distribute to the committee.

SENATOR ERDMAN: Thanks.

SENATOR KREMER: Senator Wehrbein, did you have a question?

SENATOR WEHRBEIN: We visited several times, Greg, about this in the past. Did you have other interests in this or is there any kind of a waiting list? I know that since the money went away there may not have been...

GREG IBACH: You know, I think that there were more applicants for the dollars that we had at the time of the application process. I think this bill is a little bit different in that it makes available a pool of money but doesn't necessarily require that that pool be fully granted out. There would be, between the partnership with the Department of Ag and DED, there would be some thresholds established that these proposals would have to meet and

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unlike the other one, the full amount was awarded in each application process. This necessarily wouldn't have that same requirement.

SENATOR WEHRBEIN: Thank you.

SENATOR KREMER: Any other questions? Senator Preister.

SENATOR PREISTER: On page 8 of the handout of the funded value grant program projects, it's got natural fibers. And under that it says, a large processing machine was purchased with the first grant and this machine was never operational and in hindsight was a mistake. It shows that funded amount was \$64,500. If it was purchased, never operational and was a mistake, are there any provisions for recouping or reselling or are we just throwing money away when it could be used in better ways?

GREG IBACH: This is, you know, an example and that's probably, you know, an example of any time we venture into entrepreneurial areas and trying to incent opportunities, not all of the plans come to fruition and are profitable. You know, I think if you look at some of the other businesses and the other things that were funded and were able to maybe look at, you know, the jobs created and the investment that's been returned to the communities, we could easily say that that \$64,000 was returned to the state even though it may not have worked in this specific program area. And, no, we did not have any provisions to go back to any of the companies to try to recoup funds that weren't invested that may...and I'm not saying that there were any, but if there were some that weren't invested as per the proposal that wasn't part of our ability within the previous legislation or our rules and regulations.

SENATOR PREISTER: Wouldn't it seem prudent to have some kind of a mechanism, just good accountability, if something like this is sitting rusting away where it could have been sold, where it could be used? It seems like some accountability and some mechanism, this being one example, I don't know if there are others.

GREG IBACH: And I don't know that this, what's represented in here, you know, states that it's sitting somewhere rusting. Perhaps they did remarket it and invested it in,

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you know, those dollars in a different way. But I do think that there will be some opportunities if you do pass this legislation and we drag out or, you know, go and get those old rules and regulations to make some improvements upon those rules and regulations in cooperation with DED and the Rural Development Commission to, you know, address some concerns, some reporting concerns and some accountability concerns that may be out there.

SENATOR PREISTER: If it passes, I would hope there would be some of that because I just know with human nature, if you get something for free sometimes you don't put the same attention into making sure it works as you do when you've got to put your own sweat and effort into generating the income to purchase something.

GREG IBACH: Yeah, and I would agree with you but, again, I would encourage you to look and I think that, by and large, most of the producer and producer groups that went together were good stewards of these funds invested. And, you know, and I wouldn't even necessarily say that this project...I'm not saying that they weren't good stewards. It's just, you know, there's a portion of that project that wasn't successful.

SENATOR PREISTER: Thank you.

SENATOR KREMER: Senator Chambers.

SENATOR CHAMBERS: I'm on page 5 of your handout. Here was a 75...

GREG IBACH: This will teach me to bring handouts, won't it?

SENATOR CHAMBERS: Say it again?

GREG IBACH: This will teach me to bring handouts, won't it? (laugh)

SENATOR CHAMBERS: No, no. It's good, when you present information I think that's to the good. And I remember people favorably who provide us written information.

GREG IBACH: Okay (laugh).

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SENATOR CHAMBERS: This was a \$75,000 award for a Nebraska sunflower oil crush plant market and feasibility study. This project explored the feasibility of a sunflower oil crush plant located near Kimball, Nebraska. The feasibility of this project turned out to be negative because of the competition larger processors from Archer-Daniels-Midland and Cargill. After these results, many members left the group. However, present members of the group still think a smaller plant would be successful to process sunflower seed and sell protein meal to cattle feeders rather than ship their product to Goodland, Kansas. This plant would serve a 50-mile radius within the Kimball area. The group is currently exploring other opportunities including the chemical properties of this sunflower oil and meal to determine the direction for the group. This was How much study would it take, \$75,000 just for a study. first of all, to find out which processors are doing this if they're as large as ADM and Cargill, whether or not this little operation will be trying to break into that market. Why would it take \$75,000 to figure that out when I'm from the city, not a farmer, not an economist, could tell them that?

GREG IBACH: That's one of the areas that this bill will allow us to be better at addressing with the cooperation of DED and their business analysis staff over at the Department of Economic Development. We will be able to have more flexibility in evaluating the proposals and...

SENATOR CHAMBERS: To whom did this \$75,000 go, if you know?

GREG IBACH: It would have been the cooperative and then they would have hired a consultant to do this work for them...

SENATOR CHAMBERS: And the consultant...

GREG IBACH: ...and feasibility studies under the original legislation were defined as an approved expense. And...

SENATOR CHAMBERS: But that doesn't mean that money can just be thrown out there because somebody uses the two words, feasibility study. Was there anything that set up criteria to determine whether a consultant who is hired is competent to do what the consultant is being paid for or is the

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cooperative free to just hire whoever who they want to. It could be a former legislator, lawyer who's kind of down on his or her luck right now, or just another farmer who's in trouble.

GREG IBACH: I think...that's probably a good question. I don't know that I know the answer to that. I don't think that we had a list of approved contractors. I'm confident we did not have a list of approved contractors or anything to that effect of who would be, you know, eligible for them to hire.

SENATOR CHAMBERS: I heard Senator Preister give a figure and there's no reason for him to lie at this point (laugh), of a million dollars. Was that correct...

SENATOR PREISTER: Correct.

SENATOR CHAMBERS: ...for this? Could that be sending good money after bad? In other words,...

GREG IBACH: But the limit for this bill and the grants is \$75,000 as well so we couldn't give a million dollars to anyone.

SENATOR CHAMBERS: Oh, well, see this...they got \$75,000 and just whoosh, it was gone for nothing.

GREG IBACH: Well,...

SENATOR CHAMBERS: I'm in favor of helping rural areas more than I am these big operations in the city. But just because they say rural or farm does not mean money ought to just be given to them because they say, I want some money, I got an idea that will work.

GREG IBACH: Without the ability for these producers to have been able to, you know, access capital, to do this feasibility study, and I'm sure that there were a large number of producers that felt very strongly that this was something that should work for them, they were able to access these grant funds to be able to hire somebody that maybe was more objective...

SENATOR CHAMBERS: Well, on something like...

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GREG IBACH: ...to...let me finish, please, to look at the possibilities. What it ended up...

SENATOR CHAMBERS: You're taking too long. I want to get...

GREG IBACH: ...saving these producers, though, is their $\mathtt{own}\dots$

SENATOR CHAMBERS: ...you're taking too long to answer. And if I ask the question and I feel you've answered it then I will ask you to go on...

GREG IBACH: Okay, I apologize.

SENATOR CHAMBERS: ...and you can tell me that I should be quiet and let you go on, but I'm not going to let you do that. I'm the senator.

GREG IBACH: Okay. I apologize.

SENATOR CHAMBERS: And I've had people come from rural areas and others and call me Ernie and I've let it go sometimes because they don't know any better. They have no manners. They're not trained. You're a bureaucrat and you know better. And if you don't, I want to make that clear to you and anybody else who comes before this committee while I'm a member. And I'm not trying to be rude but I'm not going to be treated rudely either. And we've been on this bill a long time and somebody has to take the bull by the horns and I'm not going to require you to answer beyond what it takes to answer my question. I have another one for you. What does the University of Nebraska make available in terms of providing information on a question such as this where a group might be wanting to do something that would put them in competition with ADM and Carqill? Is there nothing that university's departments would offer these people who want to know this information?

GREG IBACH: Mrs. Scofield is in the audience and she might be better able to answer that question. Yes, they do provide some ability to consult with. Some of those services are free and some of those are for hire.

SENATOR CHAMBERS: If this bill passes and there's this

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cooperative relationship, is anybody contemplating approaching the university to see if that information they're seeking is available before they go out and spend this money to hire a consultant when maybe the information is available free? Is that contemplated?

GREG IBACH: That would be appropriate.

SENATOR CHAMBERS: Okay. That's all that I have. And when you go back to your boss you tell him you earned your money this afternoon and you want a raise (laughter).

SENATOR KREMER: (laugh) Any other questions from Greg? Greg, I have one. If this bill should pass or I guess I'll ask the million dollars before that was in the previous bill. Were there a lot of projects or grants that were submitted that were not accepted or did you pretty much able to fund everything that was...the grant was written for?

GREG IBACH: I don't recall exactly the...

SENATOR KREMER: I'm trying to come up with maybe the amount of money that you need...

GREG IBACH: ...from a few years ago, the amount of dollars that were requested versus what we were able to fund.

SENATOR KREMER: Yeah. If there's plenty of money out there and you maybe give to some that really aren't worthy or if you had a lot of projects that you felt were worthy that were unfunded. Any idea on...?

GREG IBACH: I think part of the rationale for the first year's budget cut when we went to a reduced amount of money in the first budget cut was that we could still...would still have enough money to fund the more desirable projects with that reduced amount of money. And so I think that was part of the logic that went in at that time.

SENATOR KREMER: I was just trying to kind of establish what's really needed and, of course, it's an unknown, I'm sure, so. Any other questions? Thank you, Greg. Appreciate you coming. Anyone else wishing to testify in a neutral position? Try to keep your comments...we have three more bills. That's terrible to say that to you after

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everybody else has talked for a long time (laughter) so I'm sorry, Sandy.

SANDY SCOFIELD: Thank you, Senator Kremer. My name is Sandy Scofield. I'm the director of the Nebraska Rural Initiative. That's S-c-o-f-i-e-l-d. I did not intend to testify but I thought that if there were questions about what the university provides, I'd be glad to respond to a question from Senator Chambers or others.

SENATOR KREMER: Okay. Anyone have a question? Senator Chambers, here's your opportunity.

SENATOR CHAMBERS: Well, Senator Scofield came up here not intending to come here so anything that I would discuss about the university with you I'll do so. But here was the point that I was trying to get to. In looking through this list and I know you don't have it, it just seemed to me that the university might have information which it would make available so that people don't have to spend \$75,000 to hire a consultant to tell them that if you have a BB gun you cannot compete with somebody who has a howitzer.

SANDY SCOFIELD: Senator Chambers, the university does provide information to people on as many issues as they have expertise about. This particular one on sunflowers, sometimes when producers want a feasibility study, I'm not aware of anybody that does that for free because it's quite a comprehensive undertaking. And so if you were to come to the university and ask for a feasibility study on a project like this sunflower activity, your best bet would probably be the food processing center who would help you write a proposal to the value-added grants part of USDA and you'd ask for your money and get it that way. But they wouldn't...or if you wanted to hire them specifically, they would probably figure out how to do it but it'd probably take a while because that's quite a ways down the list of their real responsibilities. You might go to the...

SENATOR CHAMBERS: Here's what I'm getting to.

SANDY SCOFIELD: Yeah.

SENATOR CHAMBERS: Might there be somebody over there with information or knowledge already that even if it's of a

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general nature who could inform this cooperative or if it's one person trying to determine whether to get money for a feasibility study that what they're trying to have a study on involves an area where Cargill and ADM have it locked up. It's not likely you're going to break into it. There are not people over there with general knowledge or information about these kind of activities in the market or who is in it?

SANDY SCOFIELD: It would be case-by-case and kind of specific because we have people with expertise in some products that would probably know that widely. And it depends on the products you brought forward. Some of the alternatives now that people are considering, we might very well not have a specific person but we would try to steer you to, you know, even within the land grant system, somebody else that would tell you that. But it wouldn't go to the level of a feasibility study.

SENATOR CHAMBERS: Right, okay. And I didn't think the university should do that.

SANDY SCOFIELD: Right, right. We don't do that, no.

SENATOR CHAMBERS: That's all I have. Thank you.

SENATOR KREMER: Okay, thank you. Any other questions for Sandy? Please fill out a sign-in sheet, would you, please?

SANDY SCOFIELD: Okay.

SENATOR KREMER: Senator Erdman has a question or two.

SENATOR ERDMAN: Sandy, and for the committee members, I think page 4 is an example. There was a recipient, Stateline Bean Producers Co-operative that I know worked directly with the Panhandle Research Center in Scottsbluff and I don't know if the gentleman out there helped them devise their feasibility study or whether he actually did the feasibility study but I know that because of the results that they received by partnering with the university to determine whether or not it was feasible to go forward with this project and purchase the facility from ConAgra that they were then able to, you know, step forward and have the producers own it. And so I do know that there's part of

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that and maybe if there was a way to have a better clearinghouse of information as far as what is available. I think that's kind of what Senator Chambers is looking for is before somebody even would apply, you know, they could ask, we're looking to do this. And if there would be a way to partner with the Department of Economic Development so that they knew what resources were available. That might be the best way to make sure that we're getting the best use out of the dollars in the event that LB 71 would go forward.

SANDY SCOFIELD: I should probably buy you lunch or something for giving me such a good opening, Senator. Yes, and that's a good example of the point I was trying to make with Senator Chambers. But I'm pleased to hear you ask about the clearinghouse idea because one of the things the Nebraska Rural Initiative is building right now with help from the library is a clearinghouse that you as a user could come in and plug in a keyword and find all the resources of the university relevant to that keyword. That has proven to be a bit more of an undertaking than I anticipated. I always underestimate what it will take to do a technology project but we're getting there. And so someday I hope you'll be able to do that.

SENATOR ERDMAN: Yeah, thank you.

SANDY SCOFIELD: Thanks for asking.

SENATOR ERDMAN: You bet.

SENATOR KREMER: Thank you, Sandy.

SANDY SCOFIELD: Thank you.

SENATOR KREMER: Anyone else in the neutral position? Seeing none, Senator Stuhr, would you like to close?

SENATOR STUHR: Thank you, Senator Kremer and thank you members for your time and patience and I also want to thank those that testified to bring forth to you some of the benefits, I believe, of this bill. A couple points I just want to very quickly say. This is a partnership bill. It isn't that one particular ranch or farming operation. They need to work together to form a cooperative or work with other businesses in obtaining the grants. I think the way

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we have suggested the amendment to you and the partnership between the Department of Agriculture and DED will help clarify some of the oversight in who will be receiving the grants. And this seemed to be many of the questions that had been addressed here and also if this bill would pass, new rules and regulations would be written. And I think we always learn from the past and certainly this bill was in existence. It did work. And there is a matching portion that up to \$75,000 but whatever that amount is the recipient has to match it by 25 percent. And also there is a sunset on the bill that I forgot to mention previously and I think that's an important consideration to many of the senators. So, thank you very much.

SENATOR KREMER: Any questions? Senator Stuhr, I have a couple.

SENATOR STUHR: Yes.

SENATOR KREMER: There's no A bill with this right now, are there?

SENATOR STUHR: No.

SENATOR KREMER: Are there two issues that you want to establish the authority and then to establish at what level to fund it at? What do you propose to do as far as an A bill or?

SENATOR STUHR: The request would be for a million dollars and that would actually be to the Department of Economic Development so that there is a clear auditing responsibility. It was brought to our attention that when you have two agencies working together that it's best that one agency is designated as the fiscal agent.

SENATOR KREMER: Okay, so there will be an A bill then that comes along with this then?

SENATOR STUHR: Yes.

SENATOR KREMER: Okay. Any other questions? Thank you.

Senator Stuhr.

SENATOR STUHR: Okay. Thank you very much.

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SENATOR KREMER: That will close the hearing on LB 71. We have three more bills so please try to keep your comments as concise as possible and we will open the hearing on LB 330. Senator Louden is here to introduce that bill. Welcome, Senator Louden. You may begin.

LB 330

SENATOR LOUDEN: Good afternoon, Senator Kremer and members of the Agricultural Committee. My name is LeRoy Louden, L-o-u-d-e-n, and I represent the 49th Legislative District. I'm here to introduce LB 330, a bill to allow the registration of brands on the ribs of a live animal as described in Chapter 54, Section 199, subsection 2A of our Nebraska statutes. At the present time, brands can be applied to the ribs of livestock, but the statute prohibits the recording of new rib section brands after September 6, 1991. All rib brands that were recorded before that date remain valid. Fourteen years ago, a trade organization brought forward the idea of prohibiting rib brands. It was claimed that this would increase the value of cattle. increase in value has been minimized at best, and Nebraska is the only state that prohibits registration of new rib brands. Whether or not rib brands increase or decrease livestock value should be left into the marketplace. is the arena that decides value. If an animal is traded or sold to another owner, putting a new ownership brand on the hip can result in a brand overlapping a previous brand, making the brands difficult to identify. With my own personal experience, if an animal I acquire is already branded, then I do not apply my brand to the same location, but use another location where I've registered the brand. This makes identification much easier. At the present time, many owners are only allowed to brand on the hip area, if they have acquired an animal that has been previously branded on the hip location, they have no alternative but to apply the brand in the same area, sometimes resulting in an indistinguishable blotch. Statutes should be in place to support and improve efficiency of commerce and our citizens who are engaged in commerce. The prohibition of new rib brands was enacted 14 years ago to increase the value of livestock. It didn't happen and other states did not join in the effort. If the idea had increased the value of

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livestock, other states probably would have adopted the same policy. No other state has done so. It has been a detriment to those livestock owners that use hot iron brandings as a means of identification on the vast cattle producing areas in Nebraska. Branding is a necessary tool on western ranches. Not allowing the registration of rib brands denies the Brand Committee revenue and also locations to record new brands. Also, the present wording in statute places a hardship on brand owners who may inadvertently let their brand registration lapse. If a brand lapses, the owner cannot renew it at the rib location. Some of these brands have been in the family for three or four and sometimes more generations. A brand on any other of an animal can be renewed if the owner inadvertently lets it lapse. It's unfair to treat brand owners differently based on where on the animal the brand is placed. The brand committee is asking to raise the fee for inspection in order to increase revenue. Allowing registration of rib brands would not only increase revenue, but also make life easier for those livestock owners that use and need livestock brands. I'll be happy to answer any questions.

SENATOR KREMER: Thank you, LeRoy. Any questions for Senator Louden? Seeing none, thank you. Anyone wishing to testify as a proponent, please come forward. If you want to testify, please come up to the front and have your sign-in sheet filled out.

STEVE STANEC: Good afternoon, Chairman Kremer and members of the Legislative Agriculture Committee. My name is Steve Stanec, S-t-a-n-e-c. I'mthe executive director of the Nebraska Brand Committee. I am here today to testify on behalf of the Nebraska Brand Committee in support of LB 330. The purpose of the Nebraska Brand Committee is to protect Nebraska brand and livestock owners from the theft of livestock through established brand recording, inspection, and livestock theft investigation, including the responsibility to recover and return stray animals to their rightful owners. Permanent legible identification plays a vital role in allowing the Brand Committee to be successful in doing so. When legislation passed in 1991 discontinued our authority to issue rib brands under a new recording application, our capacity to issue livestock brands was diminished by one-third. This limited us to four locations on an animal for the placement of a brand rather

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than the prior allowed six locations. Of the remaining four locations, two are the shoulder locations on each side of an animal, which very often producers are reluctant to utilize due to the small amount of surface area. Unfortunately, over the last few years, E911 systems have been implemented And although brand owners did not in rural Nebraska. relocate, their mailing addresses changed. If they failed to advise us of their new addresses, the post office returned their brand renewal notice to the Nebraska Brand Committee as undeliverable. A vast number of producers lost the ownership of their rib brands due to the fact that one year following the expiration date an expired brand can only be reinstated or obtained through a new brand application. Since 1991, the Nebraska Brand Committee has received over 3,000 brand applications for added locations on a side. This would be an indication that there is interest by producers to have the flexibility in utilizing more than one location on an animal for ownership identification. would be safe to say that since producers are reluctant utilize the shoulder location, that this number could be surpassed if new rib brands were once again Certainly if there was an extremely relevant advantage to not issuing rib brands, other states would have followed suit and discontinued this practice. In the last 13 years, Nebraska continues to be the only state that does not allow for the issuance of new rib brands. Passage of this bill would not only eliminate the restrictions and mandates of the state, as well as put the decision whether or not to utilize a rib brand on their own livestock back in the producers hands, it would generate badly needed revenue for the committee that may help to stall off future increases in the per head brand inspection fee. Producers that choose to protect their investments by the use of a permanent livestock brand only exemplifies this committee's capacity to returning strays and stolen animals to the rightful owners. It is said that a cow's only return address home is The Nebraska Brand Committee the brand she carries. encourages you to pass this bill out of this committee, and certainly the benefits derived there of can only increase the level of protection to an industry that is so beneficially important to the economy of this state. Thank you for the opportunity to present testimony on this bill this afternoon, and I'd be glad to answer any questions you may have.

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SENATOR KREMER: Thank you, Steve. Any questions? Seeing none, thank you. Any other proponents? Seeing none, anyone wishing to testify as an opponent?

PETE McCLYMONT: Senator Kremer, respected members of Agriculture Committee, my name is Pete McClymont, M-c-C-l-y-m-o-n-t. I'm currently serving as president-elect of Nebraska Cattlemen, and we're here provide testimony in opposition of LB 330. According...I'll give you two reasons for our opposition. According to the Beef Quality Assurance Guidelines, brands are an acceptable means of animal identification. However, the placement of brands should be on the top hip of the animal. Visually equating the animal to a letter, a brand should be placed in the position of a postage stamp. The rib area of the animal is a prime area for leather. By placing a brand on the rib, the maximum available square footage is lost. Also, revenue realized by allowing new rib brands is minimal at best. fact, most producers have become accustomed to branding animals according to Beef Quality Assurance principles, that we anticipate few applications would be received. addition to my research for this bill, I contacted the Hide Association located in Omaha. They gave me four facts I wanted to share with you. The current average yearly difference between native or unbranded hides in those with rib brands, is \$6 to \$9 per head. If the number of rib brands increases, that spread or difference could increase to \$15, \$18 a head. Also, Asian importers, we were told, of U.S. hides continue to question why our industry uses this tool of rib branding to destroy the most valuable portion of the hide. Since branding is a U.S. tradition, our foreign competitors have gained an advantage over our producers by providing hides that are clean. Also, if 80 percent or more the cattle in a pen of fed cattle are native hides that do not have brands, a packer sometimes would bid an additional 50 cents a hundred. The most compelling evidence that I was told from the Hide Association to not allow rib brand registry comes from the automotive industry. Currently, the three largest automobile leather upholstery producers will not receive a rib-branded hide into their They will not offer to cut out the brand and work with the remaining hide; they simply won't work with that hide at all. Most processors and packers that we have spoke to concede that they do not offer premiums. However, there are instances, and I can testify to this from our family

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operation, that they will give a discount for a pen that has a significant number of rib-branded cattle. We as a beef industry and a cattle industry, need the necessary duties performed by the Brand Committee, and we benefit from that, but we also believe that we should pay for it and so we are for increased fees but we would wish not for this committee to allow LB 330 to have animals rib branded. I appreciate your time and would answer any questions from the committee.

SENATOR KREMER: Thank you, Pete. Anybody would like any questions? Senator Fischer. Sorry.

SENATOR FISCHER: Thank you, Senator. Pete, I have a question. You say packers don't offer any premiums for having hip brands over the rib brands, is that correct?

PETE McCLYMONT: Correct.

SENATOR FISCHER: Okay. Why would Nebraska Cattlemen then, and their Beef Quality Assurance Program, promote a hip brand over a rib brand if the individual producer is not receiving any benefit from them, from the packer?

PETE McCLYMONT: Senator, from the flip side, we do not wish to have in terms of a packer relationship and selling a pen, we wouldn't want a discount. If there were to be excessive amount, they could...and I know in two years of my 16 years home, that we have received discounts.

SENATOR FISCHER: A discount because you use a rib brand or a discount because some of the industry use a rib brand?

PETE McCLYMONT: The cattle I purchase from a cow-calf operator had excessive amounts of rib brands, so they were there and the packer obviously didn't want those cattle for that reason.

SENATOR FISCHER: Wouldn't you think the market would determine what individual producers want to do with their branding practices?

PETE McCLYMONT: Yes.

SENATOR FISCHER: And you as a producer in purchasing cattle, wouldn't you want to then purchase cattle with a hip

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brand instead of a rib brand?

PETE McCLYMONT: Yes, of course.

SENATOR FISCHER: So shouldn't that be an individual decision on what we want to do with our brands?

PETE McCLYMONT: Part of my testimony is because of Beef Quality Assurance principles that we have in place discourage that for the reasons NBQA, Senator.

SENATOR FISCHER: I realize that and I am a member of Nebraska Cattlemen.

PETE McCLYMONT: We appreciate that.

SENATOR FISCHER: Well, but...if the Beef Quality Assurance Program is to remain a voluntary program, why would you be opposing this bill?

PETE McCLYMONT: Because of our customers and our consumers. Even though we generally think of our consumers as people that buy beef, we also have to think about people that purchase hides, purchase lipstick that's made from blood. So if they have problems with our product, we should listen to what they feel strongly about.

SENATOR FISCHER: But shouldn't that be a voluntary choice of individual producers instead of determined by an agricultural organization or by the Legislature?

PETE McCLYMONT: Yes. The only thing I would say is just as voted upon by our members, this is something we are trying to promote.

SENATOR FISCHER: Thank you.

PETE McCLYMONT: Thank you.

SENATOR KREMER: Senator Cunningham.

SENATOR CUNNINGHAM: Yes, Pete, I guess I would agree with the line of questioning that Senator Fischer was coming with. If you had a pen of cattle that had the rib brands, wouldn't those farmers and ranchers that were selling those

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cattle, wouldn't they be...if they were docked, wouldn't they be the ones to suffer the consequence?

PETE McCLYMONT: Yes, in that bidding process, Senator. If a feed lot is doing their work and ask if those cattle do have those rib brands, if they don't visually see the cattle, yes, they should be bid accordingly less.

SENATOR CUNNINGHAM: It would seem to me that it is simply a supply and demand, and if truly they are paying more for the hip brand, more people might opt to go that way. But I would agree with Senator Fischer that I...I would think that it should be up to the individual producer.

PETE McCLYMONT: And like I said, we're just...as mandated by our membership, we're just promoting BQA, so yes you're right, that it's a choice.

SENATOR CUNNINGHAM: Thank you.

SENATOR KREMER: Any other questions? Thank you, Pete.

PETE McCLYMONT: Thank you.

SENATOR KREMER: Anyone else wishing to testify as an opponent?

JUSTIN BRADY: (Exhibit 6) Senator Kremer and members of the Agriculture Committee, my name is Justin Brady, B-r-a-d-y. I'm appearing today as the registered lobbyist on behalf of Tyson Foods, and appearing opposed to LB 330. I echo a lot of the comments Pete made. industry looks at it as they would like to create, I guess, a quality assurance, to know that when they purchase cattle...for an example, Tyson processes 22,000 cattle a day They like to be able to know that all in Nebraska. 22,000 cattle were going to be able to go through the full markets that they've developed, one of which of those markets is the hide market, and know that they could get the best value they can for it. What I handed out to you was a weekly average of the price between hides that don't have a brand and hides that have the rib brand. I'm sorry, I could not find a breakdown like this on a price of anybody on a hip brand. I called and asked Tyson; they informed me that it would fall somewhere in the middle of what a hide would

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cost if it had a hip brand. So with that I would say the issue of trying to go through and sort animals out in pens, I'm told would add to the process and extend how long it takes to get through the market, as opposed to right now where it's purchased mainly on a weight basis. And unless an animal looks extremely sick, they don't take them out of the pens. So they would continue to like the prohibition on the rib brand. I'll try to answer any questions.

SENATOR KREMER: Okay, Justin. Any questions? Senator Chambers.

SENATOR CHAMBERS: Is it true that Nebraska is the only state that would be prohibiting rib brands if this bill passes?

JUSTIN BRADY: It is true. Currently, Senator, Nebraska is the only...right now, there is a prohibition. So currently, Nebraska is the only state. So if this bill were to pass then it's my understanding they'd be like the other 50 states.

SENATOR CHAMBERS: Which means they could use rib brands?

JUSTIN BRADY: Which means they could use rib brands, yes.

SENATOR CHAMBERS: Well, how does Tyson deal with those states that are using rib brands?

JUSTIN BRADY: I asked that question. and they said nationally about 70 percent of the cattle they buy either don't have brands or have hip brands. So 30 percent nationally are only using rib brands, and that number is considerably less in Nebraska due to the prohibition; they aren't seeing near the number of cattle with rib brands. And so, I guess, they look at it as Nebraska took the first step, and they would like the rest of the country to come with them, as opposed to have Nebraska go back to where the rest of the country is.

SENATOR CHAMBERS: As far as the person who owns the cattle, is a rib brand more protection for the owner than would be a hip brand? Why would the rib brand be favored?

JUSTIN BRADY: It was my understanding...I asked that, were

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two things. One, as Senator Louden pointed out, that if someone had already previously branded in an area, it may at sometimes be difficult to put your brand over it, next to it, and still have room. I asked the question and got arguments both ways on whether or not it's easier to do a rib branding than it is to do a hip branding.

SENATOR CHAMBERS: Okay. That's all I have.

SENATOR KREMER: Any other questions? Senator Cunningham.

SENATOR CUNNINGHAM: Justin, thank you. Kind of back to the same line of questioning, but it would appear to me that Tyson Foods or where the Cattlemen might also then come out and tell you how to feed the cattle and what rations to give and how to come up with the best fat content, or marbling--that would probably be a better choice of words. But it just appears to me, so much individual choice here. And I know the Cattlemen are against this, and I know, apparently Tyson is also, but I just...I can't buy it. I couldn't buy it last year and I don't buy it this year.

JUSTIN BRADY: Um-hum. I guess I see it, I mean, it goes back to, I mean, my words, I refer to it as a quality assurance, to know...and I guess if there was...assume you saw a drastic drop-off in the quality of cattle from Nebraska, I wouldn't be surprised if you saw packers and other entities come through and try to put advice or restrictions on what cattle should eat to be able to get that quality back up. That's similar to what's happening in this hide, is they're asking that the hides stay in their best quality form, so then they can be used in the market.

SENATOR CUNNINGHAM: But by the same token, if Tyson paid a higher price, if they were given a higher price for the hip brands, I mean, that would, the market would determine and eventually more producers would try to do everything they could to go that direction.

JUSTIN BRADY: Right. And I would say now, right now the market probably reflects the fact that the vast majority of cattle purchased at Nebraska have hip brands. And therefore, if there were to become a larger influx of rib brands, I would bet that you would probably see Tyson start to address the issue of having to pay less, whether

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they...you know, my guess would be they would pay less for those that rib brand as opposed to pay a premium for those that hip brand, but that was just my guess; I don't know what Tyson would choose to do.

SENATOR CUNNINGHAM: Okay. Well, thank you, Justin.

JUSTIN BRADY: Um-hum.

SENATOR KREMER: Any other questions? Seeing none, thank you, Justin.

JUSTIN BRADY: Thank you.

SENATOR KREMER: Anyone else wishing to testify as an opponent? Anyone wishing to testify in a neutral position? And Senator Louden, did you want to close? Okay, there he is.

Thank you, Senators, for allowing me to SENATOR LOUDEN: bring this before your committee and I appreciate your hearing it this afternoon. I think Steve Stanec from the Brand Committee probably pointed out that the ownership, brand ownerships that were lost by not allowing the rib brands on there, and I agree with him completely. known some of the people that had inadvertently let their brands lapse and of course they weren't able to rerecord them on the ribs, and they'd had them for years on there. I President McClymont from Vice Nebraska Cattlemen's, which I'm also a member of and I've probably been a member longer than what the vice president is of years of age, but he is a cattle feeder; he lives in the eastern part of Nebraska and you want to remember that when they talk about the amount of cattle that come out of Nebraska that aren't branded, that about less than half of the state is in the brand area. The cattle in the eastern part of Nebraska probably aren't branded, so anything that comes out of that area isn't branded. It's mostly out on these western ranches where it has to be used as a tool to keep track of your cattle. To answer your question, I think Senator Chambers maybe asked why are we branding on the It is easier to put the brand on the rib. You can put it up higher on them so that they show from a distance better. When you are brand inspecting cattle and they go down an area, you usually get the sunshine to shine on that

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area on their sides and that brand will show up on the side. On a hip, the hair is lots of times curly, and then on the hip it's all round, so the brands have to be certain kinds of brands to be of any value on the hip. Sometimes when you talk about the hip brand, a lot of them as Monahan's puts that circle dot around the hip, Eldred's down there, had a hip "O", which was an "O" right around the hip bone on each side and I guess they were looking into the future, because you could see them real sharp from an airplane. But the preferred places are the rib branding and this is a tool that was taken away from us by litigation and I think it should be decided in the marketplace. I think Mr. Brady mentioned he was representing Tyson Food, and I can tell you I don't think Tyson Food is paying more money for cattle that have a hip brand than cattle with a rib brand. They may be paying less for those with rib brands, but I don't think they're paying more, because Tyson, what I've known of most of these packers, they buy them as cheap as they can and you can probably ask Senator Kremer, he's probably dealt with packer buyers on a regular basis, so he knows where that part will lead. Our operation, we branded on the rib for years, always have. And we have no problem selling them. At the present time, we're not selling hides, we're selling beef. So it's important that we have identification of our cattle and to bring our own cattle home. The price of the critter, last fall some of these feeder cattle were bringing a little over a \$1,000 a piece, and whether or not my packer can get \$69 or more wasn't as important to me the fact that whether or not my \$1,000 critter come home. I always think of an old fellow that I grew up with, old World War I veteran, and he always did the branding at most of these brandings, and he always said I would like to put a good, big, plain brand on my cattle to keep my neighbors honest. And I think with that, I'll probably close and I thank you and ask you to advance the bill.

SENATOR KREMER: Okay. Thank you. Senator Chambers.

SENATOR CHAMBERS: Senator Louden, why should we put in statute any location where a brand should be placed? Why don't we let the owner put the brand wherever he or she pleases?

SENATOR LOUDEN: Well, Senator Chambers, I think that came about, I was a youngster at the time, 1941, when they

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started a Brand Committee. Up until then the Nebraska Stock Growers took care of it. But the reason, in statutes, for location, is you more or less purchase that area so that people all around the state of Nebraska. My brand is registered in like, Sheridan, Garden and Cherry County, or Box Butte. Actually, if I go into another area, someone else can probably use that brand in another part of the state. And that is my understanding, the reason it's in statutes, is mostly to have some way of registering and so that people aren't using someone else's brand.

SENATOR CHAMBERS: You mean, when you register your brand you say, I will always brand on the hip or the shoulder or...

SENATOR LOUDEN: Right. My brands are located on all three places on the left side of an animal.

SENATOR CHAMBERS: Well, why do we put it in statute? Why don't we just leave it up to the owner and when he or she comes for a brand to be registered, state where it will be put? If it's going to be in the forehead, why not let the owner decide that?

SENATOR LOUDEN: Uh...

SENATOR CHAMBERS: Here's what I'm getting at, why should we put anything in the statute if we're going to argue about whether it ought to be rib or hip, and some say one and some say the other, and the line of questioning from some members of the committee is let the market decide, then don't put any location in the statute and then the market truly will decide. The ones purchasing can say, we want all the cattle that we buy to be branded on the hip. So, suppose if this bill gets out, I would want to strike "shoulder, ribs, or hip" and just leave...this is what would be left: "The brand shall be an identification mark that is applied to the hide of a live animal by a hot iron branding or by either hot iron branding or freeze branding," period, and not talk about the location on the animal.

SENATOR LOUDEN: Do you want me to respond?

SENATOR CHAMBERS: Yes.

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SENATOR LOUDEN: You'd have to take that up with the Brand Committee. I mean, the Brand Committee was put in statutes in I think like 1941 or something like that.

SENATOR CHAMBERS: No, I want your opinion about that, because you produce cattle and sell them.

SENATOR LOUDEN: Whether it would work? If the Brand Committee is satisfied with it, yes, I can live with it. Now whether or not there's some ramifications for how they registered brands around the state, I don't know that right now at the present time.

SENATOR CHAMBERS: But here's why I have difficulty. Why should I listen to the Brand Committee, when the cattlemen and women, at least their organization, don't want this? They don't want rear brands. So we've got a dispute between the Brand Committee and cattle producers...

SENATOR LOUDEN: Some cattle producers.

SENATOR CHAMBERS: ...some cattle producers, why doesn't the Legislature then get out of it altogether and we should not be dictated to by the Brand Committee. How many people are on the Brand Committee?

SENATOR LOUDEN: I don't know. I think six or eight; you'd have to ask Steve Stanec.

SENATOR CHAMBERS: Okay. Are the appointed by the Governor?

SENATOR LOUDEN: Yes.

SENATOR CHAMBERS: So why should we let the Governor make a determination about this question. Put all that aside, and I'm coming back to my original one for your opinion, would you object to striking any reference to the location on the critter where the brand would have to be placed? Because it doesn't have to be placed in a specific one of these; there's a choice. Or it can be put on all three, can't it?

SENATOR LOUDEN: Okay. Now, do I understand you, we would register our brand for that side of animal, is that what...

SENATOR CHAMBERS: No, you'd just register the brand.

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SENATOR LOUDEN: Right.

SENATOR CHAMBERS: And you'd describe or give the facsimile of it.

SENATOR LOUDEN: Um-hum.

SENATOR CHAMBERS: And that's all, and that's registered, and you don't make reference to the animal unless you want to, but there's nothing in the statute that requires a location of the animal to be included when you make an application to register the brand. Leave it strictly up to the one who is going to produce the cattle and then the dispute can be between that owner and the buyer, and if the buyer says I'm not going to buy your cattle if you brand it here rather than there. The way it is now, the Legislature is in the middle of it and is being asked to put deeper in the middle of it because Tyson wants something, the Brand Committee wants something, and some cattle producers want something. Why don't we just get out of it and let the market completely govern? Those who say they want the market to govern, don't really mean that, do they? They mean, if the market is saying what they want to say then let the market do it.

SENATOR LOUDEN: Um-hum.

SENATOR CHAMBERS: But I'm saying, leave it wide open. So just think about that; you don't have to give an answer now.

SENATOR LOUDEN: Well, other than I would say, Senator, it would be fine with me because my brand is located in all three locations, so I get to brand on all that side. This would be a problem for somebody else to work out. They do register, the Brand Committees do register those brands. I have to pay for each location.

SENATOR CHAMBERS: Um-hum.

SENATOR LOUDEN: And that would...whether that would enter in or not, I don't know. But as you mentioned, yeah, strike it if you so wish. I can live with it.

SENATOR CHAMBERS: Okay.

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SENATOR KREMER: If you register it all on one side, there's somebody else could come and use your very same brand on the other side then.

SENATOR LOUDEN: Right.

SENATOR KREMER: So if you would say that you would only brand...you register your brand for anywhere, that would eliminate a lot of other people the possibility to brand...to use that brand. So you would really limit the number of brands that could be used at that time then.

SENATOR LOUDEN: Uh...we use the rib, that we have all three locations, and the reason for that is that another location can be registered. Somebody registers the shoulder; they can register the hip. And every once in awhile you'll have somebody that will, at brandings, will put it on a little bit too far. Or somebody that has it registered on the hip can have the same brand, put it a little bit too far forward. Then you'd have to bring it before the Brand Committee to dispute who owns the critter. So that was the reason from day one,...

SENATOR KREMER: That there's six locations.

SENATOR LOUDEN: ...from the time we always...most every, and I think you probably ask Senator Fischer, I'm sure they have their brand registered in all three locations, too. The people that use brands and ranch and have cattle, usually have them in all three locations, when they could. Up to now they can't, since 1991.

SENATOR KREMER: Three locations on one side.

SENATOR LOUDEN: On one side.

SENATOR KREMER: You could buy six locations.

SENATOR LOUDEN: No, I think Colorado is the only place where you register your brand on both sides.

SENATOR KREMER: Any other questions? Thank you, Senator Louden. That will close the hearing on LB 330.

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SENATOR LOUDEN: Okay, thank you.

SENATOR KREMER: And we will open the hearing on LB 441. I will introduce that bill and the next one, so I will turn the chair over to our Vice Chair, Senator Erdman.

SENATOR ERDMAN: Thank you, Chairman Kremer. You're recognized to open on LB 441. Can I see a show of hands on those wishing to testify on LB 441? I see one. Mr. Chairman, whenever you're ready.

LB 441

SENATOR KREMER: Senator Erdman, my name is Bob Kremer; I represent District 34; spelled K-r-e-m-e-r. This is a very simple bill and it relates to brands, also. At the present time the maximum allowed brand inspection fee is 65 cents. The fee we are proposing that would be raised to the maximum of 75 cents. That does not mean that it would have to go up to 75. The brand inspection fee is a fee that can go up, or vary up or down. If the details of it, if the reserve in the fund, in the Brand Inspection Fund, is above 45 percent reserve, then the brand fee should reduce. And in 1991, it actually went from 60 cents down to 55. But then if you get the reserve below 20 percent, then the brand inspection fee could increase to whatever it costs to cover their expenses. In the last few years, mileage has increased, the number of cattle have been down because of the drought in western Nebraska, so they're not inspecting as many cattle but the costs are still there. The funds are running short, the reserve is below what it needs to be, and so we are proposing at this time that they be allowed to go up to a maximum of 75 cents.

SENATOR ERDMAN: Thank you, Senator Kremer. Any questions? I guess I would have one.

SENATOR KREMER: Okay.

SENATOR ERDMAN: We talk about the need for more money, and then their ability to raise from 65 cents to 75 cents on the inspection. What is the shortage now? I mean you said that there's a minimum reserve that they have to meet. Are they...?

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SENATOR KREMER: I don't think I have those figures. I'm sure that someone testifying could maybe give that to us.

SENATOR ERDMAN: Okay. Great. Any further questions? Thank you. We will now take testifiers in support of LB 441. Proponents?

PETE McCLYMONT: Members of the Agriculture Committee, I'm Pete McClymont, M-c-C-l-y-m-o-n-t, president-elect for the Cattlemen. As I stated earlier, this is a valuable service to the cattle and beef industry and we benefit from it and we feel like we should pay for that service, and so we are in full support of Senator Kremer's bill. And I would just echo all the things Senator Kremer said. Costs have gone up and we realize that the Brand Committee needs to have the funds to operate and perform its services. Take any questions?

SENATOR ERDMAN: Thank you, Pete. Are there any questions? Senator Chambers.

SENATOR CHAMBERS: We never miss a window of opportunity. You were so willing, would you go for a \$1?

PETE McCLYMONT: I think statute, Senator Chambers, allows for only a certain increase, but what the Brand Committee needs to operate, I would be in support of that.

SENATOR CHAMBERS: So if it turned out that even though the maximum is 75 cents, your organization could be shown that more was necessary and you then would favor bumping that higher if necessary to cover the actual costs of doing the work

PETE McCLYMONT: Yes, sir, Senator.

SENATOR CHAMBERS: Okay, thank you.

PETE McCLYMONT: Thank you.

SENATOR ERDMAN: Thank you, Senator Chambers. Any further questions? Seeing none, thank you for your testimony.

PETE McCLYMONT: Thank you.

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SENATOR ERDMAN: Next proponent? Next testifier in support of LB 441?

STEVE STANEC: (Exhibit 7) Senator Kremer, members of Legislative Agriculture Committee, again my name is Steve Stanec, S-t-a-n-e-c. I'm executive director of the Nebraska Brand Committee. I'm here this afternoon to testify on behalf of the Nebraska Brand Committee in support of LB 441, which would raise the maximum brand inspection fee allowed by statute from the current 65 cents per head to 75 cents per head. In 1941, the Legislature created the Nebraska Brand Committee, a self-supporting, cash-funded, noncode agency. And again, it's to protect the Nebraska brand livestock owners from the theft of livestock and return of stray animals to their rightful owners through our recording, brand inspection, brand and criminal investigations. Because of the fluctuations of the cattle industry and the up and down cycles that it goes through, the Nebraska Brand Committee has had a policy for a number of years that when our cash on hand reaches 45 percent of our current budget, we review the possibility of loin fee Alternatively, when our cash on hand reaches 20 percent of our current budget, the committee reviews the need to raise fees to maintain stability and provide services to the industry that it was created to do. An example of this is in 1998, following a number of years of high inspection numbers and a decrease in expenditures by lowering the number of full-time employees, the committee realized a cash on hand which exceeded 48 percent of its budget, the committee moved to lower the then per-head inspection fee from 60 cents to 55 cents in an effort lower its percentage of cash on hand. Due to a few years of record number of inspections which surpassed four million head of cattle annually, the committee was able to maintain this lower rate for five years. This five-year drop in the fees was the biggest decrease and remained at the lower rate longer than any other fee change in the history of the Brand Committee. This decrease over the five-year duration returned \$1,200,050 to the industry. To exemplify the committee's commitment to the responsible utilization of the industry dollars collected, in 1993 we employed 61 intermittent and 67 full-time brand inspectors, and brand inspected just under 3,500,000 head of cattle. In 2002, we brand inspected 800,000 more cattle with 5 less intermittent

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and 11 less full-time brand inspectors. Currently, we have 54 intermittent and 65 full-time brand inspectors. Eighty-three percent of the committee's budget is for personal services. The committee is very conservative in employee salary considerations. We rank 55th out of 72 state agencies in salaries to state employees. average annual salary for full-time employees is almost \$32,615; the average is over \$33,800 for the state. Yet, our employees' average years of service is just over 17 years and the state average is just over 11 years. early 2003, due to decreasing cattle numbers and inspection fee assessments, as well as the higher cost of doing business, the committee increased the inspection fee back to the 60 cent per head rate, which was assessed in 1998. 2003, we continued to see a decline which amounted to almost 400,000 inspections, which amounted to a loss in income of almost \$250,000. These continued losses gave the committee no alternative but to raise the per-head brand inspection fee to the maximum of 65 cents per head allowed by statute in March of 2004. Even at the higher rate throughout 2004, inspection numbers continued to decline to the tune of almost 100,000 head, which calculate into a loss of income of almost \$65,000. In the Nebraska Brand Committee's attestation report of 2003 by the State Auditor of Public Accounts, it was noted in a schedule of statistic data that in the fiscal year 2003, the total cost per inspection was 71 cents per head. Even though the committee is cognitive of its budget concerns, by not allowing cost of living increases for its employees in July of 2004, as most other state employees were granted, we are faced with additional increases in the cost of doing business. In 2004, the mileage reimbursement rate granted the state employees increased to 37.5 cents per mile. This increased our annual expenditure by more than \$15,000. The employer's portion of the health insurance benefits to employees increased 3.6 percent, which increased our expenditures by more than \$14,000 annually. Also, the committee's debt assessment fee paid to the Nebraska Information Center increased more than In 2005, the committee is faced with the mileage reimbursement rate increasing to 40.5 cents per mile, which calculates into an increase in expenditures of almost \$25,000. The current inspection fee assessed by the Nebraska Brand Committee continues to be at the 65 cents per head rate and the committee is not inclined to raise the fee any time in the immediate future if this bill passes. But

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it's important to compare Nebraska's fee with a number of other states that provide brand inspection. Currently, California is at 90 cents per head with a \$10 minimum fee, and are requesting an increase to \$1 per head. North Dakota, Oregon are currently assessing 75 cents per South Dakota is at 70 cents per head, and Washington is at 85 cents per head. Our neighbors to the west, Wyoming is currently charging \$1 per head for brand inspection. you can see, the committee has done a commendable job in managing the cattle industry's investments, as well as continuing to provide an impeccable service. In the last Nebraska inspectors five years, brand recovered 9,503 estrays, valued at almost \$7,000,000, and returned them to the rightful owner. Also in the past five years, the Nebraska Brand Committee criminal investigators, through theft investigations as well as associated crimes, recovered almost \$730,000 worth of livestock and secured 23 felony convictions and 7 misdemeanor convictions in 20 different Nebraska counties. The last time the maximum per head brand inspection fee was raised by this Legislature was in 1981, increasing it to the current 65 cents per head from 35 cents which was allowed by the Legislature in 1974. Finally, for this committee's review, I've attached a record of the brand inspection fee changes which reflects the appropriate raising and lowering of the brand inspection fees over the years, since the committee was created in 1941. Nebraska Brand Committee has proven through history that they are very capable of successfully administrating the authority that this Legislature affords them by raising and lowering the brand inspection fees appropriately. I urge you to pass LB 441 out of the committee and provide the Nebraska Brand Committee the financial stability necessary, in the event the cattle numbers and inspection numbers continue to decline or the cost of doing business continues to increase. Thank you for the opportunity to testify on I would be glad to try to answer any this bill today. questions you may have.

SENATOR ERDMAN: Thank you, Steve. Any questions for Mr. Stanec? I guess I would have one, Steve.

STEVE STANEC: Okay.

SENATOR ERDMAN: Where we're talking about the shortage you're projecting or the need, obviously the Auditor's

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Office has pointed out where you're currently at is if you had to be 100 percent cash funded, not relying on the reserve. What projections does the committee have as far as in the future they would be raising it to? Because obviously this authority is based on the future need that you're perceiving with the increased mileage and increased cost of employees.

STEVE STANEC: At this time it would be hard to speculate, not knowing where our cattle numbers will be six months down the road. Presently, we're basically holding our own, if you will because we have seen a little bit of an increase in the number of cattle on feed. So it could very well be that we will not look at another increase, and this is purely speculation, for a number of years if those numbers continue to raise; then there will not be a fee increase. The only concern is if they continue to decrease as they have the last three or four years. If you'll note on the back page of the handout that I gave you, you will note that most of the increases over time have been minimal, two to three cents at a time. The biggest decrease was a nickel a head, and at no other time, I do believe that we lowered it five So generally, it's two to three cents every time there's a change. So I would be safe in saying that the committee would not raise it ten cents a head just because they're given the authority to do so. It would probably reflect back to what previously, two to three cents at a time.

SENATOR ERDMAN: Okay. What is the process that the committee goes through to raising or lowering the fee?

STEVE STANEC: Hold public hearing--public hearings and get input from the industry prior to doing that.

SENATOR ERDMAN: Okay. Any other questions? Seeing none, thank you for your testimony.

STEVE STANEC: Thank you.

SENATOR ERDMAN: Anyone else wishing to testify in support of LB 441? Seeing none, is there anyone wishing to testify in opposition to LB 441? Seeing none, is there anyone wishing to testify in a neutral capacity on LB 441? Seeing none, Senator Kremer you're recognized to close. Senator

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Kremer waives closing and that will close the hearing on LB 441. And Senator Kremer, you are recognized to open on LB 150.

LB 150

SENATOR KREMER: (Exhibit 8) Thank you, Senator Erdman. the record my name is Bob Kremer, representing District 34, K-r-e-m-e-r. In the consideration of time we will try not to go into too much detail on maybe some of the history, but LB 150 is to create a voluntary beef checkoff in the event that the federal checkoff would be found The bill will be known as the Nebraska unconstitutional. Beef Industry Development Act. The current checkoff legislation that we have was a national checkoff that was established in 1983. It was a mandatory checkoff of \$1 per head. In 1991, the Nebraska Legislature dissolved the state agency status of the Nebraska Beef Board and allowed the board to reform as a nonprofit corporation. And at that time the Beef Board was recognized as the qualified state beef council, and that's what has been in place since that The value of the beef in Nebraska, it's about a \$11.5 billion impact on the Nebraska economy. Nebraska ranks first in cattle slaughter and consistently is a national leader in livestock feeding. Nebraska produces 20 percent of the nation's beef consumption. The program is for basically three things: one is promotion, education, and research. On the promotion side of it, I think that probably one of the most recognized slogans that we have in this country is, "Beef, it's what's for dinner." A lot of the money has gone toward that. Food science research, checkoff dollars go for research; they go to improved food safety; beef checkoff dollars helped leverage \$5 million for research into methods of better understanding E. coli. The effort has led to improved production, food preparations, storage, and processing to reduce E. coli risks, and also has established, put money into establish the Beef Quality Assurance program, and we talked about that a little bit before. But trying to manage our beef production in a way that it brings the most benefit that it possibly can. Consumer education, there's been projects that have disseminated information about nutritional values of beef. It's offered consumers ideas how to use beef; it's educated the public on preparing and storing beef in a safe

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and "flavorable" way. That's just a few of the impacts that the beef industry has in the state of Nebraska. I'll try to go through quickly, what the bill really what's included in the bill. This is a bill almost exactly like we introduced last year. It passed out of committee. It was the senator's priority bill. We ran out of time. It was about two bills down when we adjourned, and so we were not able to implement it. The intent of the bill is to have something in place that will foster the prosperity of the state and stabilize the beef industry. We think it's very important, as I mentioned, what the impacts of the beef industry has. Section 4 assigns the basic authority to employ personnel, prepare and approve the budget. This section specifically enumerates prohibited and permitted expenditures that may occur out of the funds collected under the act, including express prohibition on using checkoff funds for lobbying or political activities. Section 6 directs the director to rules and regulations to provide for efficient collection of assessment and to make refunds over-collected fees, as well as refunds that are requested by the producer, and otherwise to aid in carrying out the purposes of the act. Section 11 directs the...to have an annual report of the income and expenditures available to the public upon request, that they be prepared. The assignment of the program. Section 5, the bill authorizes the director to contract with the entity that is designed -- a qualified state beef council. And that was, I mentioned before that came into existence in 1991, I believe, and to implement the beef development program on behalf of the director, specifying the duties that are set forth. Section 5 further specifies terms that are to be included in the contract or relationship with the beef council and to carry out development activities on behalf of the director. Some of those activities that would be required of the beef council: they would have to annually prepare a budget for the director's approval; they would have to maintain books and records open for the director's inspection; they would publish annual reports of activities; they would submit an annual audit; they would continue organization governing of the board of directors elected by producers, and other terms to assure duties assumed by the beef council are carried out in accordance with the purpose of the act. Section 7 of the bill, it poses a \$1 fee. We had...a lot of thought goes into that, where to set the fee. At the present time, the \$1 fee, half of it goes to national, half of it stays in the

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Feeling that with the refund availability, that we would not get the dollar in; there will be some that will ask for a refund, so the money collected would be somewhat less than a dollar. And with the ability, then we heard from many that they would like to continue to contribute a dollar, with the opportunity for anyone to ask for the full dollar back or any amount that they would so desire. that's what the assessment would be. Section 8 of the bill assigns the duty of collection of the assessment to the buyer, and it would be immediately on the sale of the cattle. Section 8 further authorizes that a portion of the fees be used to reimburse collection expenses. I think at this time the Brand Committee does collect some of the checkoff dollars and they are allowed to keep the money, and I'm not sure just exactly how much. This would authorize those collecting the fees, sale barn or individual or Brand Committee, to collect up to...or retain up to 5 percent of what the fees were collected because it would take more book work for them. Section 9 prescribes the procedures for reporting and remitting assessments collected pursuant to the act. Persons have a duty to collect are to file reports and remit fees by the 15th day of the month, following the month of collection. And the money is remitted to be in the form of a check, payable to the Nebraska Beef Industry Foundation Development Section 4 imposes a penalty for late remittance of the assessment collection. The refundable provisions. It obligates refunds of assessments to the producer requesting a refund of any or any portion of the assessment paid, and submitting documentations specified by rules and regulations of the director, verifying the payment of the assessment. A producer may request a refund anytime up to 30 days following the date of collection. And as introduced, LB 150 provides a refund shall be quarterly paid back to the There's been some misinformation going out. Some refund. have been saying that the refunds will be available monthly and some say in a quarter, and we've heard from some people, feeling that they would rather have it on a monthly basis. So we have an amendment that we're going to offer that would say that the refunds would have to be paid within 15 days at the end of each month. The refund application would have to be submitted at the end of each month. The people that are collecting the checkoff money do not really have to have the money in till the 15th, so there's not a lot of leeway in there between when the money would have to come in, to when

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they would have to pay the refund, but they felt like it would work. The Section 13 expressly prohibits the director of the Beef Council from establishing research divisions and expressly requires that any research activity be carried out in cooperation with the University of Nebraska or other appropriate research institutes. Section 14 declares any violation of the act as a criminal violation, classified as a Class IV misdemeanor. Section 16 inserts the severability clause. Effective date. We want to add the E clause, too, because the effective date is at, the Director of Agriculture can start sending out the rules and regulations upon the effective date of the legislation, hopefully that they, the rules and regulations would be in place. The operative date when this would take effect would be 30 days national checkoff declared after, the was unconstitutional, 30 days after the assessments were ordered to cease, then our operative date would set in. really need the emergency clause on here so that the process of rules and regulations by the Department of Agriculture could be in place so that there was not a gap between whenever the ruling comes down. The Supreme Court has heard the case. They have not come back with the ruling. anticipate it here in the next couple of months. and when they will have the checkoff cease, it's unknown at this But our intention is to try to have something that would go on, feeling that it's very important that we promote our products. As I mentioned before, we raise about 20 percent of the beef for the nation; much of our beef is exported. The Meat Export Federation, a lot of money goes into that to develop markets in Japan, Korea, wherever it might be, so it's very important that we can do that. also need to be able to respond to things when the BSE incidents in Washington happened, that we could respond to assure people that our beef is safe in Nebraska, and we need money to do this. And research promotion, education is very important. I guess with that I will ask if there's any questions that you might have.

SENATOR ERDMAN: Thank you, Chairman Kremer. Are there any questions? Senator Cunningham.

SENATOR CUNNINGHAM: Thank you, Senator Erdman. Senator Kremer, the Beef Council; who's on the Beef Council?

SENATOR KREMER: Okay. The Beef Council are producers. In

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order to be on the Beef Council they have to go out, and to be nominated they have to get 100 signatures from beef producers to have their name submitted as a nominee. Then the beef producers are elected from that. I think we have seven regions, is that right, Rick? I think seven regions, so they're elected by region. So anybody that is a beef producer qualifies to be a candidate on that board.

SENATOR CUNNINGHAM: That's what I was thinking it was, but it was brought to my attention that there's no accurate list of who the producers are in the state, is that correct?

SENATOR KREMER: I can't tell you that, I don't know.

SENATOR CUNNINGHAM: The person that contacted me, and I just heard this last night actually, but they said there is no accurate list and wondered if there's some way, through the department or somewhere, to actually get this list so when they vote on the persons that are going to be on the Beef Council, that they actually send the ballots out to all of the producers.

SENATOR KREMER: You know, and I...the national checkoff was a referendum when it first was initiated, and I think we had to go into the FSA Office and vote on that and had to verify that we're a producer at that point. Now, I can't tell you now what...of course, it would be easy to verify whether the candidate was a producer, but then to qualify who can vote is another one, and maybe somebody following me can answer that because I don't know.

SENATOR CUNNINGHAM: Well, it was my understanding they sent ballots out, but I'm not certain. Is there anybody testifying behind you that might know?

SENATOR KREMER: I don't know that.

SENATOR CUNNINGHAM: Okay.

SENATOR KREMER: Hopefully there might be.

SENATOR CUNNINGHAM: Yeah, there is, they are shaking their heads, so thank you.

SENATOR KREMER: Okay, that's a good indication.

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SENATOR ERDMAN: Thank you, Senator.

SENATOR KREMER: That was kind of a quick overview. I hope I didn't overlook anything, And so maybe if I did, that someone following me could fill in the gaps.

SENATOR ERDMAN: Okay. Any further questions for Senator Kremer? Just a quick overview...and for your information, bill introduction is going on so that's why some of the members may not be here and I believe you each got a copy of the amendment that Senator Kremer proposed; it's Amendment 50. The green copy has a voluntary checkoff of a dollar refunded quarterly; the amendment is monthly.

SENATOR KREMER: Correct.

SENATOR ERDMAN: But it still allows them to refund it, any or all of that dollar. It would be refunded within that...right.

SENATOR KREMER: Within 15 days of the end of the month when they would ask for the refund.

SENATOR ERDMAN: And the enactment is that Section 6 and 15 would be enacted upon passage, and the remaining provisions would be enacted upon a decision to eliminate the national checkoff. Okay.

SENATOR KREMER: That's correct.

SENATOR ERDMAN: Okay.

SENATOR KREMER: And the E clause has also been added in the

amendment.

SENATOR ERDMAN: Right, right.

SENATOR KREMER: Okay.

SENATOR ERDMAN: Okay, thank you. We'll now proceed to proponent testimony on LB 150. Those wishing to testify in support of LB 150, please come forward.

HARRY KNOBBE: Thank you, Senators, for having an

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opportunity to hear from us. My name is Harry Knobbe, K-n-o-b-b-e. I'm from the Cuming County area, and I'm testifying in behalf of myself. Senator Kremer, you were very brief, but you almost took my whole speech. there's a little bit left. I come from an area where we market about 700,000 cattle a year, so we pay \$700,000 a year. I don't know anyone in our area, and there may be some that would not support this, but I'll give you a few ideas and always the big question is, what does the checkoff do? Well, first of all, I have your nutrition research. Beef checkoff funded nutrition research has provided science to support beef in a heart healthy diet. This enabled us to maintain beef's rightful position in the new dietary quidelines and also helps keep beef compete favorably with other proteins. Now, the Nebraska Beef Council is now invited to speak at heart banquets where beef is served. Without research funded by the beef checkoff, this would not Another area is new products. Since 1998, be possible. over 2,200 new products have been introduced into the marketplace. Consumer demand for beef has increased 16 percent in the same time frame and consumer expenditures will set a new record at 70 million for 2004. The "Beef, it's what's for dinner" slogan is recognized by 88 percent of American consumers. The beef checkoff works to satisfy the needs of time-starved consumers. Another area is muscle profile research, conducted in part at the UNL. profiling research helped to discover the new beef value cuts such as the flatiron steak and the petite tenders. These new cuts have added approximately \$60 per head by adding value to the new muscle cuts and increasing carcass utilization of the chuck and round. Again, the research was funded with beef checkoff dollars. Partnerships. service partnerships allow the beef industry to leverage their beef checkoff dollars to maximum use. For every checkoff dollar invested in these partnerships, food service contributes approximately \$68. This enables the industry to stretch their promotion dollars and introduce new products the marketplace on a faster track. Following December 23, 2003, after the announcement of the BSE case in Washington State, over 40 groups with a budget of excess \$250 million made a full assault on the beef industry. Thanks again to the positive message by the beef checkoff, we kept the consumer in high confidence. Another thing I'd like to say, and to end this, is that we need to be represented someway all the time. I've always felt that we

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all need to be part of something bigger than ourselves. this country, I've a Social Security number; I'm part of the United States; I'm part of Nebraska. We as individuals cannot promote it as working together and trying to promote this product in a fashion form like the beef checkoff. A lot of people argue and say, well, it's never did anything. I started feeding cattle in 1960 when they were 20 cents a pound, now we're 99, 92, we went that far. When beef checkoff started in the '80s, we were grossing \$800 per animal on our finished animals; now we're grossing \$1,200. That's a 50 percent increase in our product. I don't know if we can look back, if we did have it or didn't have it, but these are figures that actually happened. So to answer Senator Cunningham, your question about that, there are nine districts in the state. In regard to ballots, they have tried a lot of different ways to get people out there. We don't know a list and don't know where...or I shouldn't say...the beef council doesn't know, not myself...don't know of a list that's out there, and if it can be public. For instance, everybody who, can that come from the beef I mean, that's always been a checkoff? I don't know. problem. It's been advertised, if you wanted to vote, that you could ask for an application. I run for the Beef Council four years ago, got my 100 signatures and I promoted myself to get the ballots out there in some way or form, too.

SENATOR ERDMAN: Thank you, Harry. Any questions? Senator Cunningham.

SENATOR CUNNINGHAM: Hi, thank you, Harry. So you say it is advertised anyway, like if you don't get a ballot,...

HARRY KNOBBE: Um-hum.

SENATOR CUNNINGHAM: ...that there is a vote going to be taken place.

HARRY KNOBBE: Yes.

SENATOR CUNNINGHAM: So everybody, it's advertised in a way that everybody should have the opportunity to see it and participate in the election?

HARRY KNOBBE: Right.

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SENATOR CUNNINGHAM: Okay. Thank you.

SENATOR ERDMAN: Thank you, Senator Cunningham. Any questions? Senator Kremer.

SENATOR KREMER: Does a voter have to somehow verify that he is a cattle producer then?

HARRY KNOBBE: No, he don't have to verify it. I mean, he just...I mean it actually...it's their trust or they take their trust that he is.

SENATOR ERDMAN: Senator Wehrbein.

SENATOR WEHRBEIN: That is under this bill, right? Didn't we have to certify at FSA before, that we owned the cattle, like a 4-H'er, in the national? Is my memory wrong on that?

HARRY KNOBBE: I didn't think so. But I don't know for sure.

SENATOR KREMER: That's what I kind of mentioned, I thought we did, we had to go to the FSA and certify that we were a cattle producer in order to get a ballot. I think on that national checkoff, when you look at the referendum...

HARRY KNOBBE: At one time we voted at the ASCS office, years, I mean, 12, 13, 14 years back. But today, like in this last one, I don't know and maybe someone can testify after me, I'm not sure, I think it was just the honor system. But I'm not for sure on that.

SENATOR WEHRBEIN: But on this bill, it's the honor system.

HARRY KNOBBE: Yes.

SENATOR KREMER: Well, actually this bill just retains the Beef Council as it is, so it would be the same as far as who administers the program.

SENATOR ERDMAN: Senator Cunningham.

SENATOR CUNNINGHAM: Go ahead, Harry.

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HARRY KNOBBE: Well, you know, one thing I just think of, you know, I paid in the last 35, 40 years, 45 years, \$15,000 to \$20,000 a year, our area. And I don't know, the frustration I have, it's the people that generally pay \$50, \$100, \$200, \$300, \$400 a year, that are frustrated with \$1 checkoff. I feel I'm a successful businessman in the cattle business. I wouldn't be paying a \$1 checkoff if I didn't think or worked for it. I worked hard for this thing, in other states and all the time promoting the beef. And like I say, since the '80s, I'm getting \$400 more for my animal now than I was in the '80s.

SENATOR CUNNINGHAM: Thank you. The question I wanted to ask, Harry, it's back to the same line I was asking before, and I hate to just let it drop so easily because the person that contacted me is someone that should be in the know and someone I respect quite a bit, and he seemed to think there was a real problem with producers not voting for these people, and you know, I don't know why, but. So you really don't think there is a problem out there? I mean, you think that everybody has the opportunity and they see the advertising and they know that they're able to go vote?

HARRY KNOBBE: Well, I know I've heard people say that, but in any kind of business you have a responsibility yourself of finding out some things. I mean, it's just like, for instance, in a farm program, it's advertised. We've all heard some people say in the farm programs in the last 30 years, oh, I missed it. Well, the government is not going to take you by the hand, and the Beef Council is not going to go door to door, but it's there, it's a known thing. I never had no one tell me that, but I know there's areas that felt that way.

SENATOR CUNNINGHAM: And I heard that it was actually up in the northeast part of the state, where it happened, but I don't know. I don't know the details of it, and I really can't be specific, just that the person who contacted me I do respect and they are somebody that should know, so it concerns me a little.

SENATOR ERDMAN: Thank you, Senator Cunningham. Any further questions?

HARRY KNOBBE: Thank you.

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SENATOR ERDMAN: Seeing none, Thank you for your testimony. Next testifier in support LB 150.

MICHAEL KELSEY: Good afternoon, committee and Chairman Kremer. My name is Michael Kelsey; I'm currently serving as the executive vice president of the Nebraska Cattlemen. I'm here to provide testimony in support.

SENATOR ERDMAN: Michael, could we get you to spell your last name, please.

MICHAEL KELSEY: I'm sorry, my apologies; I even had notes to do that. K-e-l-s-e-y. I'm here to provide testimony in support of LB 150. I'd like to begin though by thanking Senator Kremer for his insight in bringing this bill early and we sincerely appreciate that. The intense amount of research that you did in conducting, as well as fashioning this bill, is very much appreciated. In 1988, U.S. producers overwhelming supported the creation of the current beef checkoff program. I remember voting in that program. I will not tell you how old I was, but nonetheless I remember going in my county, down to our county seat to the extension office and voting in that election. I voted "yes" at the time, and would vote "yes" today as a cattle We continue to have biannual producer surveys, producer. asking producers in random phone surveys their support, whether they support the checkoff, whether they do not support the checkoff. Those biannual surveys continue to indicate overwhelming support for this program to the tune of 60 to 70 percent, depending upon what time frame you would look at. The program was created with one simple objective in mind, and that is to increase consumer beef demand. As cattlemen, we are beef producers and we produce a product for consumers. We believe in its wholesomeness. We believe and are confident in its nutrition as well as its taste and very proud of that. This program is designed to increase consumer beef demand and to showcase our product to consumers. You've heard some of the many successes of the beef checkoff program. New product development. If you look back 10 years ago, if you walked into a grocery store and asked for a convenient beef product, you would be presented with a pound of ground beef, uncooked mind you. And yet, our competitors would have many different type of convenient products. Now there's well over 2,200 new

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product concepts that have been developed with the use of beef checkoff dollars. Consumers now have access to quick, tasty, and nutritional healthy beef items that can be prepared, in some cases, seven minutes or less, and we have not compromised nutrition nor have we compromised taste. continue to reinforce the positive nutrient attributes of beef through selected programs such as deskside visits, where we will actually have people go to New York, Atlanta, Chicago, major metropolitan areas, and sit by deskside to some of the major editors of a very popular news magazine and present to them the positive nutrient attributes of beef. Without the checkoff program, those editors would be unaware of the nutrient attributes of our product. muscle profiling researches is exciting in itself, and that it was done in large part right here in our backyard, at Revealing that the second most tender cut in the carcass...for years we had either been leaving in the chuck as a roast or we'd been grinding it as ground beef...the second most tender cut, which should be used as a steak and now is, as you've heard Harry refer to it as the flatiron. The flatiron steak which you can acquire here in Lincoln, by the way, is now being marketed, which adds value to the chuck end of the carcass, which means more dollars to An exciting partnership that was alluded to in producers. terms of Quizno's, a submarine sandwich chain in the promotion of a new steak sandwich. The goals for the program were to utilize 880,000 pounds of beef during the 6-week promotion, in hopes of selling 2 million pounds by the end of 2004. Actual numbers from the promotion, and this would go back to the \$1 of checkoff per \$68 that the Quizno's would have invested, actual numbers for promotion indicate that well over a million pounds of beef were sold during the promotion. In fact, the new sandwich is so successful, Quizno's has made the sandwich a permanent menu item. And so there is an example of beef being a part of a permanent menu item. Issues management, including BSE, is something that the checkoff has been very active in. We're very proud of following December 23, 2003, after the announcement of the BSE case in Washington State, that the checkoff presented very pro beef messages, and in fact, I would indicate to you that our homework was done long before that case was ever discovered. And if we had not had the checkoff before that BSE case was discovered, we would have seen a decrease in consumer confidence, and thus consumers purchasing less of our product at the marketplace. Foreign

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marketing is also a very important part of the beef checkoff. Currently, most of you are probably familiar that we don't have access to the majority of our foreign markets. Yet at this time, as we speak, American beef, U.S. beef, is being promoted in Japan. Now you may say, now that's kind of an odd thing since we don't have access to the Japanese market. But if you will, it's kind of like priming the pump. We're getting ready for the fact that we will have access to that Japanese market soon, hopefully, and when we do, we want to recover that marketplace as soon as we can. And to do that is to promote our product to the Japanese consumer so that, basically, their mouth is watering now, and when U.S. beef becomes available, they'll jump in and purchase it. Beef demand has increased in double digits in the past two years. While the beef checkoff cannot take all the credit for this increase in beef demand, clearly the efficient and effective programs funded by the beef checkoff have been a major contributor to this success. LB 150 will allow these programs and these important strives to continue should the national program be discontinued on a national On behalf of the Nebraska Cattlemen, I urge the committee to advance LB 150 immediately. I thank you for this opportunity and would be glad to try and answer any questions.

SENATOR ERDMAN: Thank you, Michael. Are there any questions for Mr. Kelsey? Seeing none, thank you for your testimony. Next testifier in support of LB 150.

ROSS GARWOOD: Senator Erdman, Senator Kremer, members of the Agriculture Committee, my name is Ross Garwood from Amelia, Nebraska. I currently serve on the Nebraska Farm Bureau board of directors, representing the north-central part of the state.

SENATOR ERDMAN: Ross, let me interrupt you real quick. Could you spell your last name for us?

ROSS GARWOOD: Yes, sir. G-a-r-w-o-o-d.

SENATOR ERDMAN: Thank you.

ROSS GARWOOD: Apologize, thank you. I chair the organization's Western Issues Advisory Committee. I am also serving on the National Cattlemen's Beef Promotion and

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Research Board and I've previously served eight years on the Nebraska Beef Council, and I would add from prior testimony that I was the election chair for two years and would entertain questions on that at the end of my testimony. I'm on behalf of Nebraska Farm Bureau todav Federation in support of LB 150, the legislation to adopt the Nebraska Beef Industry Development Act. The Farm Bureau has a long history of supporting checkoff programs as a means to help producers promote and market their products. Over the course of the last couple of years, particularly in the beef industry, it has never been more evident as to the importance of having programs in place to respond to consumer perceptions and market dynamics both here and abroad. While we await the U.S. Supreme Court decision on the fate of the national beef checkoff, we believe it's more than appropriate to take action in Nebraska to ensure that there's an opportunity for these vital promotion and research education programs to continue. Our support for a state beef checkoff, and checkoffs in general, is contingent on the basic philosophy of maintaining producer control of the program by having producer-elected members on the council and developing a proper governance process for the We believe the basic framework of LB 150 checkoff system. is sound and that it incorporates the producer control features that are important for a checkoff system. We also have other core beliefs as it relates to the development of program, such as, one, voluntary state checkoff prohibitions on the use of such funds for influencing legislation or for other political purposes; two, collections should be mandatory, with the opportunity for a full refund to the producer; and three, assures the adequate time for producers to request funds and timely distribution LB 150 addresses these of such funds, among others. points in a manner we think is acceptable. critical Finally, we think the \$1 per head checkoff proposed in the legislation meets the test of continuing with a level comparable to the current beef checkoff, given the potential that much of the current infrastructure should remain in place for the national organizations and committees to continue their promotional and marketing activities if the national checkoff is ruled unconstitutional. We appreciate the opportunity to testify today and would encourage you to advance LB 150 to General File. I would entertain your questions.

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SENATOR ERDMAN: Thanks, Ross. Are there any questions for Mr. Garwood? Senator Cunningham.

SENATOR CUNNINGHAM: Thank you, Ross. You indicated that you might have some information?

ROSS GARWOOD: The integrity of any election is a high priority. And this is not an election that's easy to do, but I'm pretty comfortable that any effort is made to anybody that wants to participate, to participate. Ag statistics does have a list. You can't get to that list, but I think we've used them to do the mailing. We've bought lists from other groups and had them do the mailing or mailed ourselves through the extension service. That aside, if you did not get a ballot, farm papers, organizations, farm newspapers, farm broadcasters... I mean, if you missed it, you probably shouldn't be voting, because there's a concerted effort. We buy time on the major farm stations, quite a bit of time ahead of time, even I have candidates do interviews on them stations to get them out so people know the issues. If they'd go to a county fair, those candidates are usually there collecting signatures. Senator Cunningham, I really believe if they missed it, they'd probably miss the general election, because you really put a lot of effort into that area, into that district, because you want a good, qualified election.

SENATOR CUNNINGHAM: Okay, thank you, Ross. The person I'm referring to actually didn't miss it, but was concerned; for some reason had a fear that a lot of people did. And I don't know whether that's accurate or not, I'm just passing on the concern.

ROSS GARWOOD: If I may, within those advertisements that go out, there's always the message, if you did not get a ballot, call the Beef Council and they will mail one to you. I mean, nobody wants to be disenfranchised just because they weren't on some list or something. And so we make that effort, too. It's a tough situation where you just want beef producers to vote. And any election is hard, but I really feel that the integrity of that, who's ever in charge of that at the time, is a high priority and something that the council always raises to make sure that everyone gets a chance to vote and the candidates are presented.

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SENATOR CUNNINGHAM: Okav. Thanks, Ross.

SENATOR ERDMAN: Thank you, Senator Cunningham. Any further questions for Mr. Garwood? Seeing none, we thank you for your testimony today.

ROSS GARWOOD: Thank you.

SENATOR ERDMAN: Anyone else wishing to testify in support of LB 150? Do you have any handouts for us, Mr. Ibach?

GREG IBACH: Not this time.

SENATOR ERDMAN: Okay.

GREG IBACH: (Exhibit 9) But I still will be happy to entertain questions at the end, and I'll fill out a sheet and bring it up, since I neglected to bring it this time. Good afternoon. My name is Greg Ibach, I-b-a-c-h. I am the assistant director of the Nebraska Department Agriculture. I am here to testify today in favor of LB 150. As currently written, the Nebraska Department of Agriculture would be charged with implementation of the Nebraska Beef Industry Development Act. We have the ability to do that implementation and believe our past experience and current experience with other similarly structured commodity checkoff programs will be beneficial. The legislation, as written, provides us the option to designate and contract with a qualified Beef Council to carry out the act. If this bill passes, the Nebraska Beef Council currently holds this USDA designation and should provide for a the federal checkoff be transition, should seamless terminated and the state checkoff enacted. In the event the department does contract the program duties to a qualified state Beef Council, I can assure you that we will not be lax in our oversight rule, but work cooperatively to ensure the success of the checkoff program. Accountability essential to grassroots strength and support. We believe in the importance of a successful beef checkoff because we have seen its effects. Checkoff dollars have been utilized in promotional events, both domestic and foreign, that have helped the department increase the demand for Nebraska beef and beef products. Without these funds, it would have been difficult to conduct such promotions. Due in part to checkoff promotional funds, the beef industry is

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experiencing unprecedented demand for both new and existing beef products. Again, if passed, we would carry out the goals of this legislation and would strive to do so in an efficient, effective manner. With that, I'll be happy to answer any questions I can.

SENATOR ERDMAN: Thank you, Greg. Are there any questions for Mr. Ibach? Senator Wehrbein.

SENATOR WEHRBEIN: I have a couple. Do you see any obvious differences in the way things are going now than how this would, you know, proposal of the average producer?

GREG IBACH: The refund provisions would be obvious differences and the legislation provides a framework for us to develop rules and regulations to handle that refund process.

SENATOR WEHRBEIN: But in the day-to-day operations of Beef Council and so forth, I assume.

GREG IBACH: And again, you know, currently the USDA designates who qualifies as a qualified state Beef Council. And the Nebraska Beef Council, at this time, has that designation, and the bill provides that, you know, if that designation would change over time, you know, we would have to make the appropriate transition, but...

SENATOR WEHRBEIN: Is this budget go through the oversight of the Legislature?

GREG IBACH: We would. I think, in the fiscal note that's attached, we have to have some additional authorities to be able to have enough room within our budget to accept those checkoff fees and then be able to pass them on with...

SENATOR WEHRBEIN: It'd be probably like the Corn Board or the Wheat Board.

GREG IBACH: Right, exactly.

SENATOR WEHRBEIN: Okay.

SENATOR ERDMAN: Thank you, Senator Wehrbein. Are there any further questions for Mr. Ibach? Seeing none, thank you for

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your testimony. Anyone else wishing to testify in favor of LB 150? Can I get a show of hands of anyone else wishing to testify in favor? Go ahead, Steve.

STEVE STANEC: Senator Erdman, members of the Legislative Ag Committee, my name is Steve Stanec, S-t-a-n-e-c, executive director of the Nebraska Brand Committee. I'm here today on behalf of the Brand Committee in support of LB 150. Nebraska Brand Committee has for a number of years, been a supporter of and has assisted in the collection of beef checkoff fee assessments. Since 1997, we have collected just under \$3 million in fee assessments for the Beef Council. The committee continues to believe that the checkoff program is vital to the cattle industry Currently, we are under contract with the Nebraska. Nebraska Beef Council to collect assessments when by statute we perform brand inspections on cattle generally that are involved in private treaty sales inside the brand inspection Currently under the agreement, the Brand Committee receives 5 percent of the total assets collected. However, this may be a meager amount of our income compared to the larger scale of brand inspections, due to the 5 percent that we do receive. The bigger scope of the issue is that through the passage of this bill, which would continue the beef checkoff program, which is vital of the research and promotion of the cattle industry in this state, which certainly would continue to create the supply and demand derived thereof that would increase cattle numbers in the state of Nebraska, which would coincide increasing our inspection numbers as well. With that, I'd be glad to answer any questions you might have.

SENATOR ERDMAN: Thank you, Steve. Any questions for Mr. Stanec? Senator Kremer.

SENATOR KREMER: You say you retain 5 percent? Have you always done that or is that...?

STEVE STANEC: Early on under the agreement, it was, I believe, 4 percent for up unto a certain amount of money, and then from then it kicked into 5 percent, or vice versa; I'm not exactly sure how it was before my time as director. But certainly it has been 5 percent for a number of years. And we don't actually retain it because we do not handle any of the money. The money goes directly to the Beef Council

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and then they reimburse us 5 percent of what it costs to do that.

SENATOR KREMER: Okay, Okay, is that an adequate amount to cover the costs set to you, you feel that this is...

STEVE STANEC: Generally, yes, it does. If you calculate the time involved of our personnel to complete forms, and et cetera, generally it's a breakeven proposition.

SENATOR KREMER: Okay.

SENATOR ERDMAN: Thank you, Senator Kremer. Any further questions for Mr. Stanec? Seeing none, thank you for your testimony. I didn't see anybody else that wished to testify in support. Is there anyone else that wishes to testify in support of LB 150? Is there anyone wishing to testify in opposition to LB 150? I see two. Are there others wishing to testify in opposition? Three?

VERN JANTZEN: (Exhibit 10) Chairman Kremer, Vice Chairman Erdman, and the members of the Agriculture Committee, my name is Vern Jantzen, J-a-n-t-z-e-n, and I'm a dairy farmer near Plymouth. I am testifying in opposition to LB 150 as a representative of the Nebraska Farmers Union. I currently serve as secretary of our organization, and our state president, John Hansen, asked me to share a few reasons why our organization opposes this bill as currently drafted. Is it good public policy to try to anticipate the results of judicial proceedings? The language of this bill refers to pending action by the Supreme Court regarding the constitutionality of mandatory assessments for promotion. Nobody is sure what the results will be, so why pass legislation that may end up not being appropriate to the findings of the Supreme Court? It may not be a catastrophe for the system to take a short break from mandatory assessments, and then if this body and the citizens of this state think a new program should be initiated, a bill can be introduced that covers all the findings handed down in previous court challenges. Nebraska Farmers Union has a policy that states our support of producer-financed commodity research and promotion programs is determined by the extent to which producers control the programs. After studying this bill, I could not find any mechanisms to allow a vote of producers on whether they

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wanted a Nebraska beef industry development program, and if the program is instituted, are votes held at a regular interval on whether the program should continue or if the fee structure should be changed. A survey of all beef producers in the state will show that a majority are not happy with the current federal program, and before this committee assumes that producers will support a volum ary state program structured like the current federal program, it might be wise to do some research. Nebraska Farmers Union policy on checkoff also states that if an assessment program is voluntary, that should mean that the voluntary provision occurs at the point of collection. This bill continues the mandatory assessment and requires the producer to file for a refund, and then wait for a refund that is only issued on a quarterly basis. If I make a voluntary decision to market my cattle on a certain date and I make a voluntary decision on where to market these cattle, why can I not also make a voluntary decision on whether I wish to allow an assessment when I deliver my cattle? It appears that the decision to file for a refund is voluntary, while the collection remains mandatory. This could run into legal problems based on what the Supreme Court decides. From a practical standpoint, how would those responsible distributing the collected funds know what is available if the requests for refunds changes the balances available on a daily basis? Is it not more practical to only have those funds available that are given voluntarily at the collection point, and then there are firm numbers to work with? These are just a few of the reservations our organization has with this proposal, and if time permits, I would be happy to discuss more points of contention that we discovered while reviewing this bill. In its present form, we cannot support this bill, and encourage this committee to wait for the results of the Supreme Court before attempting to craft a proposal that will be supported by the majority of beef producers in this state and pass constitutional scrutiny. Thank you. Any questions?

SENATOR ERDMAN: Thank you, Vern. Any questions for Mr. Jantzen? Senator Wehrbein.

SENATOR WEHRBEIN: You say a survey on whether they want...I'm looking for the survey that you think...survey of all beef producers will show. What's your basis for that?

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VERN JANTZEN: Based on my conversations with people across the state, what I am reading in publications, and the calls that we receive at our state office. I have no survey. I'm just saying if you take one, I'm willing to say that you will find a great deal of unhappiness across the state of Nebraska, every single beef producer.

SENATOR WEHRBEIN: A majority.

VERN JANTZEN: You will find a majority that are not happy. I didn't say that they won't support it. I didn't say, you know...I just said they are not happy.

SENATOR WEHRBEIN: Oh, okay.

VERN JANTZEN: They will have a number of reasons why. And so that's why I made that statement.

SENATOR WEHRBEIN: Okay.

VERN JANTZEN: And so if there's unhappiness out there, I think it's important for this committee to take that into consideration when they pass legislation. And check it out. Maybe I...call my bluff.

SENATOR WEHRBEIN: Okay. (Laugh)

SENATOR ERDMAN: Thank you, Senator Wehrbein. Any further questions for Mr. Jantzen? Seeing none, thank you for your testimony today. Next testifier in opposition to LB 150.

ROY BARTA: (Exhibit 11) Senator Kremer, members of the Agriculture Committee, my name is Roy Barta, B-a-r-t-a, and I'm here on behalf of the Nebraska Livestock Markets Association. The Nebraska Livestock Auction Markets Association, representing the auction markets in our state, wishes to express our opposition to LB 150, the Nebraska Beef Industry Development Act, as it's currently written. In our view, LB 150 presents some serious concerns that may well make it vulnerable to legal challenge if adopted in its current form. As the collector of approximately 2 million beef checkoff dollars in the state, the livestock auction markets play a critical role in the overall administration and success of the beef checkoff program. Therefore we would appreciate the Agriculture Committee's consideration

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of our views in this matter. The rush to have this bill right now is very perplexing to us, particularly when the constitutionality of the national mandatory beef checkoff program is very much in question. As you are aware, Veneman v. LMA, challenging the national beef checkoff program is currently under consideration by the United States Supreme Court. The decision of the court, which is expected later this spring, could very likely change the nature of how the national program was constituted, particularly in relation to how checkoff funds are assessed, remitted, and collected. Because the format of the Nebraska state beef checkoff program under LB 150 largely follows the current national beef checkoff program, except in its refund provision, efforts to divine in the court's decision at this point in time could very well result in the committee passing a law of questionable constitutional validity. of a desire to maintain the current state beef checkoff should the national program be declared unconstitutional, the Nebraska State Beef Council and its parent organization, Nebraska Cattlemens Association, in attempting to maintain their control over the promotional activities on funding in the state, the intent is clearly stated in Section 3, paragraph 2, which says it is the intent of the Legislature that only one beef industry development program be in effect. The bill clearly gives the director of the Agriculture the authority, and, in fact, all that commands him or her to designate the contract with an entity, the Nebraska Beef Council, to develop, implement, and direct the beef industry development program. Thus the ability to open up this program to other livestock farm organizations within the state is dismissed in the bill and many of the concerns and complaints within the current program are largely ignored. The NLMA also objects to the quasi-mandatory nature of the checkoff assessments by the mandating producers to pay the assessment, only to have to request a refund to be paid back weeks and months later. If the program were determined to be national unconstitutional abridgement of producers' first amendment rights to freedom of speech, the quasi-mandatory nature of LB 150 would very likely be constitutionally questionable, The logical way to fix the program so that it would not face future legal challenges, is to make it truly voluntary by allowing producers to opt out of the program at the point of sale. It seems more than disingenuous to us, as well as many of our producer customers, for the sponsor

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of the bill to call this a voluntary program, by making it mandatory that producers pay into the program and then force them to go through a bureaucratic process to get the very money back that they didn't want to contribute in the first place. It is incomprehensible that the director or the Beef Council would want this administrative nightmare, when it could be so easily resolved by allowing producers to opt out or into the program at the point of sale. It also seems reasonable to us, knowing that how much money you have coming in, as it comes in, would be better than the Beef Council having to wait several weeks and months to know what they can budget for various projects. Should however the committee decide to report out the bill with mandatory assessment with a refund provision, we would suggest two changes...let's back that up; one change...that there be an initial referendum to determine if producers want this program. If the state is going to mandate that producers pay the assessment and then force them to go through the bureaucratic hoops to get their money back, those same producers should have the right to determine by referendum if they want the program at all. While the Nebraska Livestock Markets Association does not object to the proposed \$1 per head of cattle fee, language should be included in the bill to specify that the checkoff funds must be expended on promotion and research projects within the state only. Contrary to Section 13 of the bill, we disagree that the Beef Council or director should be allowed to contract with national organizations or public or private organizations outside the state. We're confident that there are sufficient resources within the state of Nebraska to handle any promotion, information, or research projects necessary to carry out the purposes of the act without allowing producers' hard-earned funds to go to entities outside our great state. We also suggest the bill be amended to not allow any single entity to contract for more than 50 percent of the total annual funds. Much of the current anticheck sentiment in the country exists because many producers believe their checkoff dollars are being used exclusively by certain cattle organizations to support public policies with which they disagree. To remedy that impression, the checkoff contracts and funds must be opened up to many more livestock organizations and private public entities, particularly if checkoff dollars are to Lastly, Section 4, paragraph 3, which voluntarily given. establishes prohibitions on the expenditure of checkoff

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funds, should include a prohibition on the expenditure of checkoff funds for the purposes of promoting live cattle marketing alliances or any other means of marketing the live animal. Nebraska Livestock Market Association also objects to the provision in the bill, Section 7, paragraph 4, that allows an adjustment in the assessment fee to be approved by a simple vote of the board of directors of the Beef Council, or upon the director's own initiative. Any increase in fees should be approved only after public hearing referendum of all cattle producers. We are also struck by the fact that the bill does not specify how members of the Agriculture director-designated Beef Council will be chosen. Nebraska Livestock Market Association would like to see a more democratic process used in which the council members would be elected by contributing producers by regions. Also, given the important role livestock markets play in collecting and remitting checkoff funds, we believe one region should constitute livestock markets. We urge the committee not to pass LB 150 as currently drafted and wait for the U.S. Supreme Court decision in Veneman v. LMA, that they might have proper guidance on how to proceed. action on LB 150 by the committee at this time would be much more prudent. Thank you for your time and the opportunity to comment.

SENATOR ERDMAN: Thank you, Roy. Any questions for Mr. Barta? I have an observation, and I'm going to check on this. I don't believe that the Legislature has the authority to put a referendum on the ballot, so we'd have to come up with some other way of accomplishing that...(recorder malfunction with some testimony lost).

CAP DIERKS: (Recorder malfunction. Testimony resumes with Cap Dierks' testimony in progress.) The reason I didn't is that I support the checkoff. I think that...I appreciate what the checkoff research has done for the sale of my cattle. I think you heard some information here today that you should concentrate on. One of the testifiers said 60 to 70 percent of the people, when they've asked them, have supported it. That would leave 30 to 40 percent maybe that didn't. Now there's a reason for that, and I'm not sure exactly what the reason is, but I can tell you what a reason would be for me not to support it, and I think that the last testifier touched on it when he talked about a referendum. We tried to develop legislation when I was still here for a

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pork checkoff, and part of that legislation said that there had to be a referendum on the...the pork producers had to run their own referendum to decide if their members really wanted it. One of the reasons, if you recall, that there is a beef checkoff, and of course today at all, is because of a referendum. Now, do we ignore those people who have a firm feeling about this, or do we accept the fact that maybe there is some people out there that need to be heard. I feel that this thing, for it to be effective and to be honest with everybody, there should be a referendum. And I don't say that you have to do it, but I say that the cattlemen that want this thing should have to do it. If I'm a supporter of the beef checkoff, I should want to be involved with that referendum so that I know that I'm not forcing my will on people that don't want it. And the other thing is, if they don't want it bad enough, they should be able to opt out, and I firmly believe that opt-out ought to come at the point of sale. I don't think anybody should have the use of my dollars if I'm upset with the checkoff, when I'm having to pay interest on those dollars for ... well, I thought it was going to be for three months, but one of the reasons I came out in neutral instead of opposition was because of that amendment that you brought to the bill, Senator Kremer, because I think that makes more sense. the better sense would be to have it based on the day of If you want to opt out, opt out the day of the sale, and it saves all that communication and getting money back to the producer. I think that's the fair way. opportunity for these people to vote I think is essential, and I think that should be part of your bill, as well; not only on the referendum, but I think on a three-year basis, four-year basis, if something happens that these people are unhappy with what's going on, they ought to be able to vote on this issue. That should be part of a national referendum, and that should be part of a state referendum. on this issue. Personally, I think that the checkoff has worked well. think it has provided us with incentives for people to buy our product. If I had a problem with it, it was that some of the money, I think at the national level, was used for administrative costs, and I didn't think that was necessary for me to pay for that. But that's part of the...evidently part of the program. I'll be glad to answer any questions you might have.

SENATOR ERDMAN: Thank you, Senator Dierks. Are there any

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questions? Senator Wehrbein.

SENATOR WEHRBEIN: Real quickly, maybe I should have asked somebody else, but you have your ear to the ground pretty well. Promotion, education, and research; I can't see why people would oppose that, in general.

CAP DIERKS: Yeah, I don't either. I don't either, Roger.

SENATOR WEHRBEIN: So it must be beyond that which hasn't been really articulated here, today, or else just the political side which probably we could all disagree in...

CAP DIERKS: Well, you know there's a political side. I mean, that's part of it. I think we've talked about that even when I was still here. We felt like there was some politics being played at the packing level, at the level of the packers.

SENATOR WEHRBEIN: Some of that may or may not be true.

CAP DIERKS: Well, that's true.

SENATOR WEHRBEIN: I mean, that's what's hard to get at, but.

CAP DIERKS: Yeah, and that's true, but that's part of the politics; that's what you're hearing and that's what you're going to hear. That's why I think that it's a viable option to let the producers not only opt out if they want out, to be able to vote on the issue and to continue it. That's the reason we're in the shape we're in.

SENATOR ERDMAN: Thank you, Senator Wehrbein. Senator Kremer and then Senator Cunningham.

SENATOR KREMER: Okay. Senator Dierks, we have really considered, I think, every issue that was brought up here, too. And the thinking was that if we ever got to a place where 50 percent or 75 percent of the people are asking for refund, would be a pretty good referendum; that in a sense, you do have a referendum when you can get a refund. And maybe not quite to the extent of what you could with a vote. Would that be...? Do you agree with that or not?

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CAP DIERKS: I think that you're going to be surprised at the people that will opt out.

SENATOR KREMER: Well, that would sure send the message that something is wrong, wouldn't it, if that was the case.

CAP DIERKS: Because I know people up in my area who trade in thousands of head of cattle in a year. And I know that this one particular guy is running 700,000 or 800,000 cattle; he's going to want that \$700,000 or \$800,000 back in his pocket; I just know that. And that's going to put the squash on the program in the first place.

SENATOR KREMER: Well, ...

CAP DIERKS: And those big operators are the ones that are going to opt out.

SENATOR KREMER: That's the problem with voluntary.

CAP DIERKS: I mean, you've got some good-sized operators in the state there are not going to operate out, and I'm sure that some of them are sitting behind me, because they feel that strongly about the issue. But I know there are...the fact is I know one out there in my country that wants to do away with the Brand Committee; he doesn't want to pay the brand inspection fee on all these cattle, so. No, I think that, to be realistic folks, this is...these are things that are going to happen and I think you have to be aware...

SENATOR ERDMAN: Thank you, Senator...

CAP DIERKS: ...of the politics involved and the ups and downs, and the people who don't really buy into the program.

SENATOR ERDMAN: Sorry to interrupt. Thank you, Senator Kremer. Senator Cunningham.

SENATOR CUNNINGHAM: Thank you, Senator Dierks. What do you believe, if they were able to opt out at the point of sale, then would there be a need for a referendum in your view?

CAP DIERKS: It might lessen the need for a referendum. But, I mean, if you're honest with people, you will give them the opportunity to say whether they want it or not.

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SENATOR CUNNINGHAM: This is just your personal view I'm asking for now, but...and like I say, I don't have a personal stake in this, but what is your view of what would happen to the cattle industry if there were no checkoff? I mean, would it be good or bad or...?

CAP DIERKS: I think it would...we're used to it. Now we know what it does. I think it would be a deleterious thing.

SENATOR CUNNINGHAM: It would be a what thing?

CAP DIERKS: It would be deleterious. I think it would not be good for the industry.

SENATOR CUNNINGHAM: I mean, that's what concerns me. I know there's a lot of people that don't want the checkoff, and it should be up to them as the producers, I guess, but I personally am scared of what will happen if we don't have the checkoff.

CAP DIERKS: I can recall my days on the Business and Labor Committee, that there was always legislation in there that would force people who were in the work force to pay the same dues that those that belonged to the labor unions, if they didn't belong, because they were taking advantage of the work that the labor unions did. That was always a difficult bill to get through committee, but that's essentially the same thing.

SENATOR CUNNINGHAM: I actually thought about that a little while ago, because we have two of those bills again this year. And I was thinking about that; is that the same thing as this. But anyway, thank you. Thank you for coming down.

CAP DIERKS: You bet. Well, first of all, I want you to understand that I support the beef checkoff because I think it's done us good. But I know there are people who don't, and I think we need to be fair and reasonable with them, as well.

SENATOR ERDMAN: Thank you, Senator Cunningham. Senator Fischer.

SENATOR FISCHER: First, Senator Dierks, it's always good to

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see you.

CAP DIERKS: Thanks, Deb.

SENATOR FISCHER: Glad you're here. This is a voluntary measure, correct?

CAP DIERKS: That's before us today, yes.

SENATOR FISCHER: Yes. So doesn't this bill provide a referendum of sort because it is voluntary and people can opt out and receive their money back?

CAP DIERKS: It does except for one little thing; the money comes back after someone else has had the use of it for 30 days or 15 days. I mean, if we're talking about pure and simple, that's one of the problems.

SENATOR FISCHER: You think the livestock market... You're selling your cattle at the livestock market; you can get your money back that day.

CAP DIERKS: I don't think ...

SENATOR FISCHER: But if you're selling your money private treaty, and you have people coming to your ranch and they're writing you the check, how is that going to work out then if you want the money back the same day?

CAP DIERKS: You don't get your money back. You just don't pay it in the first place, if you're at the point of sale. It won't...

SENATOR FISCHER: So if you have a private...

CAP DIERKS: It won't be collected. If you did it at point of sale, it would not be collected at the auction market.

SENATOR FISCHER: And private treaty, then I would have to have these forms at my ranch and fill them out and have the buyer fill them out, and we as sellers would have to fill them out and just not collect it, and then where would we send the forms?

CAP DIERKS: If you sold your cattle at private treaty on

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the ranch after this bill is passed, whose responsibility would it be to send the money in? I'm not supposed to ask you questions, but I'm saying, is the Brand Committee going to be responsible for collecting the dollars? Then if you had point of sale collection, you just wouldn't collect at that point, if you didn't...

SENATOR FISCHER: But wouldn't you have to have some kind of form to fill out, even at private treaty and on your ranch?

CAP DIERKS: I suppose you would, yeah. But that would be the brand inspector's job to carry that, I suppose.

SENATOR ERDMAN: I think it's okay, Senator Dierks, for you to ask us questions.

CAP DIERKS: I beg your pardon?

SENATOR ERDMAN: I said, I think it's okay for you to ask us questions.

SENATOR FISCHER: Now, wait a minute. I don't know if he can ask me a question though.

CAP DIERKS: Okay. (Laugh)

SENATOR ERDMAN: You can't ask Senator Fischer any more questions; you've just been banned. Any of us have any further questions for Senator Dierks?

SENATOR KREMER: I have this comment, that somebody asked about the increase of fees, and Rick looked this up. The Beef Council does not increase fees by a simple majority. The bill says that it has to be a unanimous vote of the Beef Council. The council may request the director to increase the fees and the director must hold hearings...and for a raise. He can also lower the fees, too, at the discretion of the director, but they have to have hearings and not just indiscretionary raises. That wasn't your question but I just...that was something that I thought was interesting.

CAP DIERKS: Yeah. I should say that I'm representing today, myself. This is testimony on behalf of the Dierks Ranch, because we do, in essence we support what the Cattlemen are asking. I'm just asking for consideration for

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those people who don't support it.

SENATOR ERDMAN: Right. Thank you. I know that, at least in our area, we have a voluntary checkoff program; that's on our dry beans. And it's the same initial thought that you would have is, the larger producers are going to opt out and the smaller guys are going to pay the bill. I think it's less than 5 percent is annually refunded to anybody, and the majority of the people who are paying into it are the larger producers because they recognize that they probably have more product to move then the smaller guy and need the market that's available. And ironically it all ties into LB 71 and having an option for the farmers to own the facility in the process, and to be able to distribute it. But, you know, I think everybody who was here in support and opposition bring good points, and if we knew what the Supreme Court was going to do, it would be easy for us to introduce something. But I guess the question that I have is, we go down this process with the voluntary checkoff, however we do it, whether it's at the point of sale or whether it's a monthly refund, and prior to that you would still have a referendum or however the process would go. Ultimately, you're still going to have some people paying in and some people not. And the reason that some people are opposed to the checkoff now appears to be that they don't like it going to national organizations or politics or lobbying or whatever. What is the argument the people use when we...if, we should say if...if we pass a law that specifically bans the involvement in a national program that prohibits the use of any of the checkoff for political or lobbying efforts, and is only used for research and education and the things that it seems like everybody can agree on? What's the argument that people then use for a refund?

CAP DIERKS: I wouldn't argue with that. I don't know what their argument would be. But I didn't argue with it when it became a national effort. I supported it at the national level. And by the way, we did vote it at the ASCS office. And, like, children could vote. They were not even...I mean, they were 10, 11 years old, but I mean, yeah.

SENATOR KREMER: If you had one animal.

SENATOR ERDMAN: They didn't have to lower the age majority

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for that; that's good. (Laughter) Sorry, wrong issue. And I think it's healthy for us to have the discussion because there's going to be...there are more people not in agriculture that are going to be able to impact what agriculture does, than what has gone on in the past, and that may be a federal judge, that may be interest groups who may have...

CAP DIERKS: Spare us.

SENATOR ERDMAN: ...their own benefit at heart, as opposed to those of us who are directly involved in agriculture. And I think it's healthy for us to have the discussion. My concern is that we get in the situation where we hang ourselves. And I don't know how much farther, when you recognize...you know, we're less than 2 percent of the population, those of us directly involved in the production of agricultural products. We do have a lot of political clout, because everybody eats and everybody has to have some provision, but we just seem to come at opposite ends of perspective and don't want to give on either side, to come up with a remedy that shows some unity and recognizes that these are challenges that we need to work together with. And hopefully, this will be the start of a new idea and a new trend to get towards that.

CAP DIERKS: Some folks are just shortsighted, I think, as far as how much good the checkoff can do for them. But then you can't dictate to them that they shouldn't be shortsighted. I mean, they...I could maybe ask the committee a question.

SENATOR ERDMAN: Everybody but Senator Fischer; she will not answer but the rest of us may.

CAP DIERKS: Okay. If the national checkoff goes down, why would you think that the state checkoff would not follow? What would keep the checkoff at the state level afloat, if it wouldn't survive the federal level?

SENATOR ERDMAN: Go ahead, Senator Kremer.

SENATOR KREMER: Well, the challenge has been violating the first amendment of compelled speech.

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CAP DIERKS: Yeah.

SENATOR KREMER: And so when you have the ability to get the refund would address that, and that's exactly why we have this.

CAP DIERKS: You think that's enough.

SENATOR KREMER: I mean, I don't even know whether they'll...if that would go down, if they...in a year or two, that we wouldn't have another national checkoff that was formed to address the concerns and why it was found unconstitutional. At that time, then, that would be preference over this, and this would probably drop out because... But the ability to get the refund is really the difference.

SENATOR ERDMAN: I think it's a leading question.

CAP DIERKS: That's what?

SENATOR ERDMAN: I said I think it's a leading question, because we obviously don't know what the United States Supreme Court is going to rule on, so what makes our law or what makes any law that we would pass better as we look at decisions that have been made, whether it's in the almond growers or whatever decisions have come down and trying to figure out how to apply that. I think the intent that Senator Kremer and those of us that have signed on to the bill, is to be prepared. And whether or not we advance LB 150 out tomorrow or today or within the next couple of weeks, at least we're in a position where we have already introduced a bill where we're prepared to respond if we know how to respond, and we can come to some type of agreement. And I think your question is right, how do we know? we know based on precedents that is set, but the ultimate precedent we're going to set is going to be what the United States Supreme Court rules, and in addition to that, it's going to set precedent across the board. So it's not like you're going to be able to say, we can challenge it somewhere. They took the case so that they could set a precedent nationwide on what checkoff programs would and wouldn't be. And so I think you're...

CAP DIERKS: On the street, this is the comment: We think

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that all the checkoffs are going to go down, across the board; the corn checkoff, all the commodity checkoffs are going to go down. I hear this more on the street than I don't hear it.

SENATOR ERDMAN: Maybe we need to get you some new streets.

CAP DIERKS: And I'm not talking to the lawyers. I'm just talking to farmers like Roger and Bob; Senator Wehrbein and Senator Kremer, excuse me, and Ernie.

SENATOR ERDMAN: Are there any further questions for Senator Dierks? We appreciate the discussion and your testimony.

CAP DIERKS: Thanks a lot, and good luck.

SENATOR ERDMAN: Anyone else wishing to testify in a neutral capacity on LB 150? Seeing none, Senator Kremer you're recognized to close.

SENATOR KREMER: Thank you, Senator Erdman. And I want to thank everybody that came and testified, whether they had concerns or whether they are in support totally, And we have correspondence that we have corresponded back and forth with some of the groups that had concerns and tried to listen to what their concerns were, and the very fact that we introduced the amendment to have the refund monthly was in response to that. I heard, several times, the opt out at the point of sale. And we seriously looked at that, and we found...this was legislation in the state of Louisiana, and I'll just read to you a little bit, and this is on a bill that they had, a Senate bill, SB 1202. They passed a law to opt out at the point of sale, and this is the quote. He said that when the explanation form passed, they were told to try it and see how it worked. And they agreed to try it so that the bill Then a little wouldn't die in the conference committee. further on in his testimony he said, after two years of this program, they've experienced untold numbers of forgeries, false statements on exemption forms, so that it's totally impossible to manage a program and get compliance. And they changed it to where you did not opt out at the point of And I understand the reasoning for it, but I just think it opens up for a lot of problems, and that's why we kind of left it in. We did bring it back to a month, so

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that their money wouldn't be laying there for that long. It was kind of interesting. The challenge to the mushroom checkoff was brought by a large producer that did not want to give money and help anybody small out, because they wanted to take that money...and I know there's not as many mushroom producers as there are beef producers, but you put mushrooms on that beef and it's pretty good, you know. they challenged it because they wanted to take their own money, promote their own product, and let everybody else fall by the wayside. So we're having a challenge by large producers, by small producers, and I really think the mandatory checkoff makes everybody pay in proportion to what they raise. And if there's benefits, they all benefit in proportion to what they've contributed, so. And I know the problems are that there's always somebody out there that doesn't feel it's going the right way, and that's understood. I don't think we could ever come up with any kind of a program where we'd have 100 percent of the people that would support it. It's just not going to happen. So you try to come up with something, a way that you can address the ones that have concerns, but also still have a program that's viable and goes on. We also heard that they would like to use the checkoff, have the money sent in, then have the Beef Council send that to an entity of their choice. Then you would almost have to certify all these groups that it could be sent to, otherwise you could send it to...name it whatever. That would be very cumbersome. And then if somebody wouldn't get certified, they'd be unhappy then, too. And we feel like, with the refundability, get your refund, write a check to that group that you want to support, you know. I know that you might have somebody use your money for 10 days, 15 days, 20 days, something like That might be a problem. But still you have that ability to direct that money to go any place you want to, by asking for the refund. I think it's a self-help program. If all these checkoffs go down, you think anybody else is going to be caring about us out there? And this is our own money that's promoting our product. And I thank Senator Dierks for bringing his estimation of the value that it's brought. So I guess that's maybe all the comments that I had. The rules and regulations. When this...if it becomes effective, when we get this passed, then the Department of Agriculture can start rules and regulations. They would have to have hearings, have comment periods back and everything, before they write the rules and regulations. So

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it's going to take a period of time before the regulations and rules are in place. And we don't know when the Supreme Court is going to come down with their decision. If we don't do something this year and then delay it till when we find out what their ruling is, then start to do this process, we could be a year and a half or somewhere down the line with nothing, and then to start up another whole program, and what would we lose. You know, I think we'd be lost in that time. So we thank you for the ones that come with concerns, and we've truly looked at them and still tried to come up with what we thought was best, and appreciate all the testimony. Any questions that you might have?

SENATOR ERDMAN: Thank you, Mr. Chairman. Any questions for Senator Kremer?

SENATOR KREMER: One other comment. I looked at my notes and realized here. Some people would like to have the money. They have the specialty products that they will not be able to promote these because it's a generic promotion. If we did not have a generic promotion, I can think you'd have all kinds of problems. But I think that if you raise the bar, if you have a premium on whatever you're promoting, the premium on the top of 30-cent cattle or the premium on top of 90-cent cattle, I think that there's a real benefit to those that even have a specialty products and demand a premium, and rightfully so. So I believe that we all benefit from it and we've really tried to look at all the concerns that people have had, and it's not perfect, I'm sure, but it's the best that we could come up with. Thank you.

SENATOR ERDMAN: Thank you. Didn't see any further questions. Want to thank you, Senator Kremer and Rick for your efforts, and we know that they'll be ongoing, and we appreciate your leadership on this. That will close the hearing on LB 150. We thank all of you for attending today, and that will close the hearings for the Ag Committee for today.